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its successor agency under Public Law 103-354 1910-5, "Request for Verification of Employment." Income or portions of income from sources that are not known or not easily contacted will be verified from the best information obtainable. This may include copies of payroll records, tenant's own records, contacts with individuals who may be knowledgeable of the tenant's income, or, if no other verifiable data is available, a notarized affidavit from the tenant attesting to his/her previous year's income. The borrower and tenant will execute Form FmHA or its successor agency under Public Law 103-354 1944-8, "Tenant Certification." The borrower will be expected to certify only that the income is correctly stated based on the best information available. The borrower will be expected to have the tenants that occupy the project year round and do not have easily verifiable income report monthly income to enable accurate income certification at the end of one year of occupancy.

[45 FR 47655, July 16, 1980, as amended at 45 FR 70777, Oct. 27, 1980; 48 FR 6697, Feb. 15, 1983; 50 FR 16056, Apr. 24, 1985; 51 FR 27670, Aug. 1, 1986]

§ 1944.183 Exception authority.

The Administrator of the Farmers Home Administration or its successor agency under Public Law 103-354 may, in individual cases, make an exception to any requirements of this subpart not required by the authorizing statute if the Administrator finds that application of such requirement would adversely affect the interest of the Government, the immediate health or safety of the tenants or the community. The Administrator will exercise the authority only at the request of the State Director. The State Director will submit the request supported by data: demonstrating the adverse impact; identifying the particular requirement involved; showing proper alternative courses of action; and, identifying how the adverse impact will be eliminated.

§§ 1944.184-1944.199 [Reserved]**§ 1944.200 OMB control number.**

The reporting and recordkeeping requirements contained in this regula-

tion have been approved by the Office of Management and Budget and have been assigned OMB control number 0575-0045. Public reporting burden for this collection of information is estimated to vary from 5 minutes to 150 hours per response, with an average of 11 hours per response including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, room 404-W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB# 0575-0045), Washington, DC 20503.

[57 FR 59905, Dec. 17, 1992]

**EXHIBIT A TO SUBPART D OF PART 1944—
LABOR HOUSING LOAN AND GRANT
APPLICATION HANDBOOK***Introduction.*

The section 514 Labor Housing loan and section 516 Labor Housing grant programs are administered by the Rural Development's Rural Housing Service (RHS), herein referred to as the Agency. Interested parties are advised to contact any Rural Development office processing Labor Housing (LH) loans and grants to obtain information on program and application requirements prior to developing an application. Notice of Funds Availability (NOFA) for off-farm facilities will be announced annually in the Federal Register, along with application requirements and the deadline for applying. Requests received during the application period will be selected competitively, based on the objective selection criteria in the regulation and announced in the NOFA. Applications for on-farm facilities are accepted any time during the year and are funded on a first-come, first-served basis, based on the availability of funds.

Payments for technical assistance incurred by a nonprofit group or public body applicant entity for developing and packaging an application will be reimbursed with loan and grant funds. If the services are performed, the proceeds will be limited and must be documented. The reimbursable costs should be negotiated and approved by the Agency in advance of the applicant entity's process of packaging and developing a preapplication. Based upon what is typical in the area, the Agency will respond in writing approving the

packaging plan and a range of costs in advance.

Applicants should also be aware that rental assistance (RA) subsidies are available to eligible projects to reduce rents for very low- and low-income farmworkers. RA may be used in conjunction with LH grants to develop feasible LH projects to meet local farmworker housing needs. When at all possible, applicants should consider the use of RA in lieu of a full 90% grant for LH projects with year-round occupancy.

[45 FR 47655, July 16, 1980, as amended at 51 FR 27670, Aug. 1, 1986; 60 FR 4070, Jan. 20, 1995; 64 FR 24482, May 6, 1999]

EXHIBIT A-1 TO SUBPART D OF PART 1944—INFORMATION TO BE SUBMITTED BY ORGANIZATIONS AND ASSOCIATIONS OF FARMERS FOR LABOR HOUSING LOAN OR GRANT

I. INFORMATION TO BE SUBMITTED WITH SF 424.2 (FOR PREAPPLICATION SUBMISSION).

A. ELIGIBILITY.

1. Financial Statement—A current, dated, and signed financial statement showing assets and liabilities with information on the repayment schedule and status of all debts. If the applicant is an association of farmers, a current financial statement will also be required from each member who holds an interest in the association in excess of 10 percent. If the applicant is a limited partnership, financial statements are required from each general partner who holds an interest in the organization, and from each limited partner who will have 10 percent or more ownership. The financial statement must reflect sufficient financial capacity to meet the initial operating capital requirements. Loan or grant funds may be used to provide the required initial operating capital for nonprofit entities and State or local public agencies. If the applicant is a limited partnership, the financial statement must also demonstrate sufficient capacity to meet the applicant's equity contribution.

2. All applicants, except State and local public agencies, must provide evidence that they are unable to obtain credit from other sources. Letters from credit institutions who normally provide real estate loans in the area should be obtained and these letters should indicate the rates and terms upon which a loan might be provided.

3. If a Labor Housing (LH) grant is requested, the applicant should provide a statement on their projected use of Rental Assistance (RA) and their need for a LH grant. This statement should include preliminary estimates of the rents required with and without a grant and the relative need for a grant if RA is provided to supplement market rents for eligible farmworkers.

[LH grants and RA are not available to associations of farmers; LH grants are not available to limited partnerships.]

4. A statement of the applicant's experience in operating LH or other rental housing. If the applicant's experience is limited, additional information should be provided to indicate how the applicant plans to compensate for this limited experience. (i.e., obtaining assistance and advice of a management firm, non-profit group, public agency, or other organization which is experienced in rental management and will be available on a continuous basis).

5. A brief statement explaining the applicant's proposed method of operation and management. This does not have to be a full-fledged management plan, as outlined by exhibit B of this subpart; however, it should generally explain how the applicant proposes to operate the facility. (i.e., on-site manager, contracting for management services, etc.).

6. Applicants must provide a copy of or an accurate citation to the special provisions of State law under which the applicant is or is to be organized, a copy of the applicant's charter, Articles of Incorporation, bylaws, and other basic authorizing documents; names, occupations, and addresses of the applicant's members, directors, and officers; and, if a member or subsidiary of another organization, its name, address, and principal business.

B. NEED AND DEMAND.

A preliminary survey should be conducted to identify the supply and demand for LH in the market area. The market area must be clearly identified and may include only the area from which tenants can reasonably be drawn for the proposed project. The applicant must provide documentation to justify need within the intended market area. The market survey should address or include the following items:

1. The annual income level of farmworker families in the area and the probable income of those farmworkers who are most apt to occupy the proposed unit.

2. A realistic estimate of the number of farmworkers who are home-based in the area and the number of farmworkers who normally migrate into the area. Information on migratory workers should indicate the average number of months the migrants reside in the area and an indication of what type of family groups are represented by the migrants (i.e., single individuals as opposed to families). Much of this information may be available from the local office of the Rural Manpower Services section of the Department of Employment Services.

3. General information concerning the type of labor intensive crops grown in the area and prospects for continued demand for farm laborers (i.e., prospects for mechanization, etc.). Information may be available from the

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local U.S. Department of Agriculture (USDA) Cooperative, State, Research, Education and Extension Service office or from the Farm Service Agency.

4. The overall occupancy rate for comparable rental units in the area and rents charged and customary rental practices for these units (i.e., will they rent to large families, do they require annual leases, etc.). This information may be available from census data, local planning organizations, or local housing authorities.

5. The number, condition, adequacy, ownership and rental rates for units currently used or available to farmworkers. This information may be available from local farmworker advocacy groups, Rural Manpower Services, or social service agencies.

6. A description of the units proposed, including number, type, size, rental rates, amenities such as carpets and drapes, related facilities such as a laundry room or community room and other facilities providing supportive services in connection with the housing and the needs of the prospective tenants such as a health clinic or day care facility; estimated development timeline; estimated total development cost and applicant contribution. If the application includes leveraged funds, include documentation of the dollar amount, source, and commitment status.

NOTE: The market survey is one of the most important determinates of the overall feasibility of the proposed project. Therefore, the applicant may wish to do a more detailed study of the market in accordance with item II J below. Endorsement of the proposal by community leaders will not be required.

C. ENVIRONMENTAL INFORMATION.

The applicant will complete Form RD 1940-20, "Request for Environmental Information," along with a description of anticipated environmental issues or concerns.

D. AFFIRMATIVE FAIR HOUSING MARKETING PLAN.

Each applicant will prepare and submit HUD 935.2, "Affirmative Fair Housing Marketing Plan," where they propose developing five (5) or more units. The plan will reflect that occupancy is *not* limited to their employees and they will not discriminate on the basis of race, color, sex, age, handicap, marital or familial status or National origin in regard to the occupancy or use of these units.

E. ADDITIONAL INFORMATION.

1. Evidence of site control such as an option or sales contract; a map and description of the proposed site, including the availability of water, sewer, and utilities, and

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proximity to community facilities and services such as shopping, schools, transportation, doctors, dentists, and hospitals.

2. Preliminary plans and specifications, including plot plans, building layouts, and type of construction and materials.

3. A supportive services plan describing services that will be provided on-site or made available to tenants through cooperative agreements with service providers in the community, such as a health clinic or day care facility. Off-site services must be accessible and affordable to farmworkers and their families. Letters of intent from service providers are acceptable documentation at the preapplication stage.

II. INFORMATION TO BE SUBMITTED WITH SF 424.2 (FOR APPLICATION SUBMISSION).

A. After the applicant has received the signed SF 424.2 authorizing the applicant to proceed to develop a final application, the applicant and the applicant's architect should meet with the FmHA or its successor agency under Public Law 103-354 architect/engineer and other officials responsible for loan processing. During this preprocessing meeting, FmHA or its successor agency under Public Law 103-354 will discuss the services which the applicant's architect will be expected to provide and will also explain the items needed to complete the final application such as Form FmHA or its successor agency under Public Law 103-354 1940-20, "Request for Environmental Information," if not previously submitted in the pre-application stage.

If after the preprocessing meeting the applicant believes that the Labor Housing (LH) project can be developed within the guidelines required by FmHA or its successor agency under Public Law 103-354, the following information should be submitted with SF 424.2:

B. If applicable, evidence of compliance with 7 CFR part 3015 subpart V, "Intergovernmental Review of Department of Agriculture Programs and Activities." See FmHA Instruction 1940-J, available in any FmHA or its successor agency under Public Law 103-354 office.

C. Proposed contracts for architectural, engineering, and legal services as applicable. FmHA or its successor agency under Public Law 103-354 approval of these contracts should be obtained before execution of the contract.

D. A plot plan and detailed preliminary drawings and specifications prepared in accordance with subpart A of part 1924 of this chapter. Exhibit A-3 provides FmHA or its successor agency under Public Law 103-354's general philosophy and standards concerning the construction of LH facilities.

E. A detailed cost breakdown of the project for items such as land purchase, right-of-

ways, building construction, equipment, utility connections, on-site improvements, architectural and/or engineering services, and legal services. Also, if applicable, the cost breakdown should include the costs incurred for the development and packaging of its own application. These costs may range from 2 to 4 percent of total development cost (excluding initial operating and capital expenses) and should reflect costs that are reasonable and typical for the area. Costs in excess of 4 percent will not be reimbursed. If an LH grant is proposed, construction will be subject to the provisions of the Davis-Bacon and related Acts. LH grant applications should, therefore, obtain a copy of the Department of Labor regulations (29 CFR part 5), which contain the applicable labor standards provisions.

F. Satisfactory evidence of review and approval of the proposed housing, including compliance with zoning requirements by State and local officials, as required by applicable State or local laws, ordinances, or regulations.

G. If not already provided in the pre-application submittal, a map of the proposed site showing the location of the site in relation to available facilities such as schools, shopping, churches, hospitals, etc. In addition, supporting information should be provided indicating that essential utilities such as sewer, water, electricity, etc., will be available to the project. (See exhibit A-3 for FmHA or its successor agency under Public Law 103-354's general requirements for location of LH facilities).

H. A description of and justification for any related facilities such as community or multi-purpose type buildings, cafeterias, dining halls, infirmaries, child care facilities, etc. To be included for funding by FmHA or its successor agency under Public Law 103-354, the facilities should not be of extravagant design and their size must be commensurate with the needs of the farmworkers who will occupy the housing facility. Any long-term agreements which are contemplated with other agencies for services such as manpower training, migrant health services, child care, and education programs should be explained and included as justification for the related facilities.

I. A detailed market analysis addressing in detail the preapplication information required under item I B above, "Need and Demand," should be conducted in accordance with the following:

1. The market area (i.e., the area from which tenants can reasonably be drawn for the project) should be clearly identified.

2. Adequate existing units which are currently available or which could become available should be surveyed and information obtained and recorded in a format similar to exhibit A-4.

3. Individual farmworkers and farmworker groups should be contacted and their ideas obtained concerning the type of housing which would gain the greatest acceptance. (This information may not seem important at the outset of the loan if there is a pressing need for LH, however, to assure a long-term demand for the project, consideration should be given to the views of the prospective tenants).

4. The above items should then be correlated to arrive at a realistic estimate of the total need for units, type of units, estimated occupancy, maximum rental rates which can be charged for the units, and the type of amenities or related facilities which should be provided.

J. Proposed, detailed operating budgets for: (1) The first year of operation, and (2) a typical year's operation. The overall percentage of occupancy should be based upon the data collected in the market analysis. Operating costs should be realistic and should reflect somewhat higher than normal maintenance costs and an allowance for the establishment of a reserve as required by the loan agreement. The budget should be prepared in a format similar to exhibit A-5.

K. A management plan which includes the applicable items of exhibit B.

L. When the loan is to be secured by a junior real estate lien, certain agreements will be required from prior lien holders. The local or State FmHA or its successor agency under Public Law 103-354 Official will provide the applicable agreements.

M. An option to purchase or other evidence of ability to purchase or evidence of ownership for the proposed site.

III. SUBMISSION OF FINAL APPLICATION.

When the final application is assembled it should be submitted to the local FmHA or its successor agency under Public Law 103-354 District Office for review and submission to the State Office. As soon as a final decision to approve the loan is reached, the applicant will be notified and advised to proceed with the preparation of final plans and specifications, contract documents, and other items needed to close the loan. *The applicant should not proceed with bid advertisement or contract awards until advised to proceed by FmHA or its successor agency under Public Law 103-354.*

[45 FR 47655, July 16, 1980, as amended at 48 FR 29121, June 24, 1983; 49 FR 3762, Jan. 30, 1984; 53 FR 36268, Sept. 19, 1988; 55 FR 6245, Feb. 22, 1990; 55 FR 13503 and 13504, Apr. 11, 1990; 60 FR 4070, Jan. 20, 1995; 61 FR 56116, Oct. 31, 1996; 64 FR 24482, May 6, 1999]

EXHIBIT A-2 TO SUBPART D OF PART
1944—INFORMATION TO BE SUB-
MITTED BY INDIVIDUALS,
FARMOWNERS AND FAMILY FARM
CORPORATIONS OR PARTNERSHIPS
FOR LABOR HOUSING LOANS

I. INFORMATION TO BE SUBMITTED BY INDIVIDUALS, FARMOWNERS AND FAMILY FARM CORPORATION OR PARTNERSHIPS FOR LABOR HOUSING LOANS.

A. *Financial Statement.* Show assets and liabilities of the applicant, each individual farmer, and each farming partnership or corporation of which the individuals are members. Each statement must be signed and dated. Financial statements of family farm corporation or partnership members with less than a ten percent corporate or partnership interest need not be submitted to FmHA or its successor agency under Public Law 103-354.

B. *Other Credit.* All applicants must provide evidence that they are unable to obtain credit from other sources. Applicants should attach letters showing what rates, terms and conditions are available for the project from private credit sources. In seeking other credit, the assets and personal liability of each of the members must be offered if the applicant is a family farm corporation or partnership.

C. *Experience.* Describe the experience of each member in owning or operating labor or rental housing. If limited, describe other business experience.

D. *Operation.* Describe the proposed operation of the housing and its relationship to the farm operation. Include the proposed method of tenant selection, unit maintenances, determining rental charges (if any), payment of utilities, etc.

E. *Need.* Describe the farming operations in which the laborers to be housed in the units will be used. Include acreages of each crop or details of other operations. Discuss present laborers and their living arrangements and the number and condition of labor housing now provided.

F. *Continuing Need.* Discuss any possible changes in mechanization or shifts to other farm products that might decrease the need for labor housing in the future.

G. *Proposed Security.* If a mortgage is not being given on the entire farm, explain why not and describe the sites proposed as security. Attach a map showing the site locations, shopping areas, schools, doctors, hospitals, nearest public water and sewer system, and school bus stop.

H. *Proposed Project.* Describe the housing proposed to be bought or built (specify which) and the estimated cost. If building sites are to be purchased, show the cost of each. Attach any options available. List any other expenses expected. Show the total

cost, the loan requested, and the applicant contribution.

I. *Environmental Information.* The District Office will advise the application of the applicability of FmHA or its successor agency under Public Law 103-354's environmental requirements under subpart G of part 1940 of this chapter which are primarily based on the size of the proposed project. If the pre-application must go to the National Office for approval, the applicant will complete Form FmHA or its successor agency under Public Law 103-354 1940-20, "Request for Environmental Information." The District Office will provide assistance and guidance to the applicant in completing this form.

J. Each applicant will prepare and submit HUD 935.2, "Affirmative Fair Housing Marketing Plan", where they propose developing five (5) or more units. The plan will reflect that occupancy is limited to their employees and that they will not discriminate on the basis of race, color, sex, age, handicap, marital or familial status or National origin.

II. INFORMATION TO BE SUBMITTED WITH SF 424.2 (FOR APPLICATION SUBMISSION).

A. *Supplemental.* Any information requested to clarify or augment information supplied earlier with the preapplication.

B. *Site.* Options to purchase or a copy of deeds and mortgages on sites already owned.

C. *Surveys.* When needed to identify the site, a current survey showing boundaries, geographical features, access to public roads, and public utility location.

D. *Plans, Specifications, and Proposed Contracts.* Attach one copy of each complete set of building plans and specifications and a bid or contract for construction. A complete site plan is also required.

E. *Environmental Information.* If not submitted with the preapplication, the applicant will complete Form FmHA or its successor agency under Public Law 103-354 1940-20, "Request for Environmental Information."

[45 FR 47655, July 16, 1980, as amended at 49 FR 3762, Jan. 30, 1984; 53 FR 36268, Sept. 19, 1988; 55 FR 6245, Feb. 22, 1990; 55 FR 13503 and 13504, Apr. 11, 1990]

EXHIBIT A-3 TO SUBPART D OF PART
1944—LABOR HOUSING CONSTRUCTION
GUIDELINES

I. INTRODUCTION:

This exhibit provides the Farmers Home Administration or its successor agency under Public Law 103-354's (FmHA's) general guidelines and policies concerning the planning, location, and construction of housing for farmworkers. The type of housing should be in accordance with the needs of the prospective tenants. Multi-family type units are encouraged whenever possible; however,

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when planning units for farmworker families, lower density building design and layout is normally desirable. Housing should be designed in such a manner that it will be decent, safe, sanitary, and modest in size and cost. Actual plans, specifications, and contract documents should be prepared in accordance with subpart A of part 1924.

II. TYPES OF HOUSING AND APPROPRIATE STANDARDS

a. Single-family type housing is defined as an individual or a group of individual single family detached dwelling units. These type units should meet the following standards:

1. All sites shall be planned and constructed in accordance with subpart C of part 1924 of this chapter.

2. All planning and construction other than seasonal farm labor housing and housing to be occupied more than six months but less than year-round shall be in conformance with the applicable development standard as required by §1924.5(d)(1) of subpart A of part 1924 of this chapter and applicable state and local codes.

b. Multi-family type housing is defined as a project or a number of projects encom-

passing a building or buildings containing more than one dwelling unit and may include mixtures of detached and multi-unit structures in a project. These type units should meet the following standards:

1. All housing designed for year-round occupancy will be planned in compliance with the applicable development standard and will be compatible with conventional rental type housing.

2. Housing for seasonal occupancy (less than six months) shall be designed and constructed in accordance with exhibit I to subpart A of part 1924 of this chapter.

3. Housing to be occupied more than six months but less than year-round shall be designed and constructed in substantial conformance with and be easily converted to the applicable development standard requirements for year-round housing.

4. All planning and construction should be in conformance with applicable State and local codes.

[44 FR 59212, Oct. 15, 1979, as amended at 45 FR 39794, June 12, 1980; 47 FR 28086, June 29, 1982; 52 FR 8036, Mar. 13, 1987; 52 FR 19302, May 22, 1987]

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EXHIBIT A-4 TO SUBPART D OF PART 1944—SURVEY OF EXISTING LABOR HOUSING

EC06SE91.000

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EXHIBIT A-5 TO SUBPART D OF PART 1944—STATEMENT OF CASH FLOW

EC06SE91.001

EC06SE91.002

[44 FR 59214, Oct. 15, 1979, as amended at 48 FR 56174, Dec. 19, 1983]

EXHIBIT B TO SUBPART D OF PART 1944—
MANAGEMENT PLANS

The management of a rental project, regardless of the type of tenants, is one of the most, if not the most, important determinants of the success or failure of a proposed project.

The management plan, therefore, as the primary management charter should constitute a comprehensive description of the detailed policies and procedures to be followed in managing the project and should as a minimum address the following items:

1. *Staffing.* The number, qualifications required, and duties of all personnel who will

be hired to operate the project. Equal employment opportunity should be provided and special consideration should be given to hiring Spanish-speaking persons if warranted by the expected occupancy. Roles and responsibilities of owner and of manager should be specified.

2. *Marketing.* The marketing efforts or techniques which will be used to obtain initial rent up and occupancy of future vacancies (i.e. advertisement, contacts with social service agencies, local farmers, etc.). Definite dates for opening and closing of the project will be spelled out for projects constructed for seasonal purposes.

3. *Tenant selection.* Domestic farm workers must be given absolute priority in renting available units. Other selection criteria should be specifically outlined in the management plan. Arbitrary restrictions as to family size, age of children, or other similar items are prohibited, however, the size of unit assigned to a family should be commensurate with its needs. Rejected tenant applications should be maintained for a minimum of 1 year and applicants must be advised in writing of the reasons for rejection.

4. *Ineligible tenants.* Units can be rented to other than farm workers when they are not needed by farm workers (i.e., during the off season), however, the leases must be on a short-term basis, normally not exceeding 30 days, and ineligible tenants must be advised that they will have to vacate the units if an eligible farm worker becomes available. To avoid future problems, occupancy by ineligible should be avoided if at all possible. Written permission to rent to ineligible must be obtained from the District Director before allowing the ineligible tenant to occupy LH projects.

5. *Lease or occupancy agreement.* A copy of any proposed lease or occupancy agreement should be submitted with the plan. The lease or occupancy agreement should clearly outline the responsibilities of the tenant and landlord.

6. *Counseling services.* Pre- and post-occupancy counseling services, which will be provided to tenants by borrowers to acquaint them with the project or otherwise assist them should be thoroughly explained.

7. *Collection of rent.* The system which will be used in the collection of rent must be outlined including proper provisions for the internal control and security of cash collections, followup on overdue accounts, persons responsible for collections, recordkeeping, and conditions for the return of security deposits, if required.

8. *Evictions.* The plan should spell out the specific reasons which warrant eviction and the steps which will be taken to resolve problems before eviction, including provisions for appeal. Voluntary compliance with the lease or occupancy agreement should be emphasized and every effort should be made

to utilize the benefits available through local social service agencies and other community organizations.

9. *Maintenance and repairs.* A schedule for preventive maintenance and the procedure for handling service requests from individual tenants, including procedures for the handling of emergency repairs on a 24 hour basis, should be outlined. Management plans for projects constructed for seasonal occupancy will include provisions for off-season maintenance and security.

10. *Records and reports.* The type of record-keeping system which will be established and the person or persons who will be responsible for keeping records and submitting required reports to FmHA or its successor agency under Public Law 103-354. Subpart C of 1930 of this chapter (FmHA Instruction 1930—C) outlines the reports required and the formats for these reports. This Instruction is available from the local District Office.

11. *Fidelity bonds.* Bonding should be provided for all persons entrusted with the receipt, custody, and disbursement of funds and custody of other negotiable or readily salable personal property. The amount of the bond should be at least equal to the maximum amount of money or property which the individual will have control of at any one time.

12. *Tenant councils.* Tenant councils should be encouraged and should be given an input into proposed changes in lease agreements, staff selection, eviction, and in some cases tenant selection and other management decisions which have a bearing on the tenant's overall situation. Provisions should also be outlined for the democratic election of tenant councils.

13. *Rent increases.* Requested or proposed rent increases should be handled in accordance with exhibit C of subpart C of part 1930 of this chapter.

14. *Non-discrimination.* The plan should address the policy of non-discrimination in tenant selection and employee hiring in accordance with Form FmHA or its successor agency under Public Law 103-354 400-4, "Assurance Agreement," and the affirmative action planned in the recruitment of employees and tenants.

15. *Other items.* Any other items which have a bearing on the operation and management of the project.

16. The management plan must be signed and dated by the borrower or the borrower's authorized representative.

[44 FR 59199, Oct. 15, 1979, as amended at 45 FR 70738, Oct. 27, 1980; 47 FR 28086, June 29, 1982; 58 FR 40951, July 30, 1993]

EXHIBIT C TO SUBPART D OF PART 1944—
LOAN RESOLUTION

(LH INSURED LOAN TO NONPROFIT CORPORATION)

LOAN RESOLUTION OF _____,
19__

RESOLUTION OF THE BOARD OF DIRECTORS OF _____ PROVIDING FOR BORROWING \$ _____ TO FINANCE HOUSING AND RELATED FACILITIES FOR DOMESTIC FARM LABOR, THE COLLECTION, HANDLING, AND DISPOSITION OF INCOME, THE ISSUANCE OF INSTALLMENT PROMISSORY NOTE AND REAL ESTATE SECURITY INSTRUMENT, AND RELATED MATTERS

Whereas _____ (herein referred to as "Corporation") is a nonprofit corporation duly organized and operating under (authorizing State statute)

The Board of Directors of the Corporation (herein referred to as the "board") has decided to provide certain housing and related facilities for domestic farm labor;

The board has determined that the Corporation is unable to provide such housing and facilities with its own resources or to obtain from other sources for such purpose sufficient credit upon terms and conditions which the Corporation could reasonably be expected to fulfill;

Be it resolved:

1. *Application for Loan.* The Corporation shall apply for and obtain a domestic farm labor housing loan (herein called "the loan") of \$ _____ through the facilities of the United States of America acting through the Farmers Home Administration or its successor agency under Public Law 103-354, United States Department of Agriculture (herein called "the Government") pursuant to title V of the Housing Act of 1949. The loan shall be used solely for the specific eligible purposes for which it is approved by the Government, in order to provide housing and related facilities for domestic farm labor. Such housing and facilities and the land constituting the site are herein called "the housing."

2. *Execution of Loan Instruments.* To evidence the loan the Corporation shall issue a promissory note (herein referred to as "the note"), signed by its President and attested by its Secretary, with its corporate seal affixed thereto, for the amount of the loan, payable in installments over a period of _____ years, bearing interest at the rate of 1 percent per annum, and containing other terms and conditions prescribed by the Government. To secure the note or any indemnity or other agreement required by the Government, the President and Secretary are hereby authorized to execute a real estate security instrument giving a lien upon the

housing and upon such other real property of the Corporation as the Government shall require, including an assignment or security interest in the rents and profits as collateral security to be enforceable in the event of any default by the Corporation, and containing other terms and conditions prescribed by the Government. The President and Secretary are further authorized to execute any other security instruments and other instruments and documents required by the Government in connection with the making or insuring of the loan. The indebtedness and other obligations of the Corporation under the note, the related security instruments, and any related agreements are herein called the "loan obligations."

3. *Equal Opportunity and Nondiscrimination Provisions.* The borrower will comply with (a) any undertakings and agreements required by the Government pursuant to Executive Order 11063 regarding nondiscrimination in the use and occupancy of housing; (b) Farmers Home Administration or its successor agency under Public Law 103-354 Form FmHA or its successor agency under Public Law 103-354 400-1 entitled "Equal Opportunity Agreement," including an "Equal Opportunity Clause," to be incorporated in or attached as a rider to each construction contract the amount of which exceeds \$10,000 and any part of which is paid for with funds from the loan, (c) Farmers Home Administration or its successor agency under Public Law 103-354 Form FmHA or its successor agency under Public Law 103-354 400-4, entitled "Nondiscrimination Agreement (Under Title VI, Civil Rights Act of 1964)," a copy of which is attached hereto and made a part hereof, and any other undertakings and agreements required by the Government pursuant to lawful authority.

4. *Supervised Bank Account.* The proceeds of the note and the amount of \$ _____ to be contributed by the Corporation from its own funds and used for eligible loan purposes shall be deposited in a "supervised bank account" as required by the Government.¹ Amounts in the supervised bank account exceeding \$100,000 shall be secured by the financial institution in advance in accordance with the U.S. Treasury Department Circular No. 176. As provided by the terms of the agreement creating the supervised bank account, all funds therein shall, until duly expended, collaterally secure the loan obligations. Withdrawals from the supervised bank account by the Corporation shall be made only on checks signed by the _____ of the Corporation and countersigned by the County Supervisor of the Farmers Home Administration or its successor agency under

¹Only loan funds, and borrower's funds to be used for an eligible loan purpose, may be deposited in the supervised bank account.

Public Law 103-354, and only for the specific loan purposes approved in writing by the Government. The Corporation's share of any liquidated damages or other monies paid by defaulting contractors or their sureties shall be deposited in the supervised bank account to assure completion of the project. When all approved items eligible for payment with loan funds are paid in full, any balance remaining in the supervised bank account shall be applied on the note as an "extra payment" as defined in the regulations of the Farmers Home Administration or its successor agency under Public Law 103-354, and the supervised bank account shall be closed.

5. *Accounts for Housing Operations and Loan Servicing.* The Corporation shall establish on its books the following accounts, which shall be maintained so long as the loan obligations remain unsatisfied: A General Fund Account, an Operation and Maintenance Account, a Debt Service Account, and a Reserve Account. Funds in said accounts shall be deposited in a bank or banks insured by the Federal Deposit Insurance Corporation, except for any portion invested in readily marketable obligations of the United States as authorized by Section 9. The Treasurer of the Corporation shall execute a fidelity bond, with a surety company approved by the Government, in an amount not less than the estimated maximum amount of such funds to be held in said accounts at any one time. The United States of America shall be named as co-obligee, and the amount of the bond shall not be reduced without the prior written consent of the Government. The Corporation in its discretion may at any time establish and utilize additional accounts to handle any funds not covered by the provisions of this resolution.

6. *General Fund Account.* By the time the loan is closed the Corporation shall from its own funds deposit in the General Fund Account the amount of \$_____. All income and revenue from the housing shall upon receipt be immediately deposited in the General Fund Account. The Corporation may also in its discretion at any time deposit therein other funds, not otherwise provided for by this resolution, to be used for any of the purposes authorized in section 7, 8, or 9. Funds in the General Fund Account shall be used only as authorized in said sections and, until so used, shall be held by the Corporation in trust for the Government as security for the loan obligations.

7. *Operation and Maintenance Account.* Not later than the 15th of each month, out of the General Fund Account shall be transferred to the Operation and Maintenance Account, sufficient amounts to enable the Corporation to pay from the Operation and Maintenance Account the actual, reasonable, and necessary current expenses, for the current month and the ensuing month, of operating

and maintaining the housing not otherwise provided for. Current expenses may include, in addition to expenses occurring or becoming due monthly, monthly accumulations of proportionate amounts for the payment of items which may become due either annually or at irregular intervals, such as taxes and insurance, normal repair and replacement of furnishings and equipment reasonably necessary for operation of the housing. Current expenses may also include initial purchase and installation of such furnishings and equipment with any funds deposited in and transferred from the General Fund Account which are not proceeds of the loan or income or revenue from the housing.

8. *Debt Service Account.* Each month, immediately after the transfer to the Operation and Maintenance Account provided for in section 7, or after it is determined that no such transfer is called for, any balance remaining in the General Fund Account, or so much thereof as may be necessary, shall be transferred to the Debt Service Account until the amount in the Debt Service Account equals the amount of the next installment due on the loan. Funds in the Debt Service Account shall be used only for payments on the loan obligations and, until so used, shall be held by the Corporation in trust for the Government as security therefor.

9. *Reserve Account.* (a) Immediately after each transfer to the Debt Service Account as provided in section 8, any balance in the General Fund Account shall be transferred to the Reserve Account. Funds in the Reserve Account may be used only as authorized in this resolution and until so used shall be held by the Corporation in trust as security for the loan obligations. Transfers at a rate not less than \$_____ ² annually shall be made to the Reserve Account until the amount in the Reserve Account reaches the sum of \$_____ ³ and shall be resumed at any time when necessary, because of disbursements from the Reserve Account, to restore it to said sum. Of such sum, at least 50 percent shall be maintained on a cash basis, referred to herein as the "cash reserve." After the cash reserve reaches the required 50 percent of said sum, all or any portion of the balance of said sum may, at the option of the Corporation, consist of an amount, referred to herein as the "prepayment reserve," by which the Corporation is "ahead of schedule" as defined in the regulations of the

²In most cases this figure should be one-tenth of the aggregate sum specified later in the sentence and indicated by footnote 3.

³The amount to be inserted will usually be about 10 percent of the value of the buildings and related facilities financed wholly or partially with the loan.

RHS, RBS, RUS, FSA, USDA

Pt. 1944, Subpt. D, Exh. C

Farmers Home Administration or its successor agency under Public Law 103-354. Funds in the cash reserve shall be deposited in a separate bank account or accounts insured by the Federal Deposit Insurance Corporation or invested in readily marketable obligations of the United States, the earnings on which shall accrue to the Reserve Account.

(b) With the prior consent of the Government, funds in the Reserve Account may be used by the Corporation—

(1) To meet payments due on the loan obligations in the event the amount in the Debt Service Account is not sufficient for the purpose.

(2) To pay costs of repairs or replacements to the housing caused by catastrophe or long-range depreciation which are not current expenses under section 7.

(3) To make improvements or extensions to the housing.

(4) For other purposes desired by the Corporation which in the judgment of the Government likely will promote the loan purposes without jeopardizing collectibility of the loan or impairing the adequacy of the security, or will strengthen the security, or will facilitate, improve, or maintain the orderly collectibility of the loan.

(c) Any amount in the Reserve Account which exceeds the aggregate sum specified in subsection (a), and is not agreed between the Corporation and the Government to be used for purposes authorized in subsection 9(b) shall be applied promptly on the loan obligations.

10. *Regulatory Covenants.* So long as the loan obligations remain unsatisfied, the Corporation shall—

(a) Impose and collect such fees, assessments, rents, and charges that the income of the Corporation will be sufficient at all times for operation and maintenance of the housing, payments on the loan obligations, and maintenance of the accounts herein provided for.

(b) Maintain complete books and records relating to the Corporation's financial affairs, cause such books and records to be audited at the end of each fiscal year, promptly furnish the Government without request a copy of each audit report, and permit the Government to inspect such books and records at all reasonable times.

(c) If required or permitted by the Government, revise the accounts herein provided for, or establish new accounts, to cover handling and disposition of income from and payment of expenses attributable to the housing or to any other property securing the loan obligations, and submit to the Government regular and special reports concerning the housing or the Corporation's financial affairs.

(d) Unless the Government gives prior consent—

(1) Not use or permit use of the housing for any purpose other than as housing and related facilities for domestic farm labor.

(2) Not enter into any contract or agreement for improvements or extensions to the housing or other property securing the loan obligations.

(3) Not cause or permit voluntary dissolution of the Corporation, nor merge or consolidate with any other organization, nor cause or permit any transfer or encumbrance of title to the housing or any part thereof or interest therein, by sale, mortgage, lease, or otherwise, nor engage in any other new business, enterprise, or venture than operation of the housing.

(4) Not cause or permit the issuance or transfer of any stock, borrow any money, nor incur any liability aside from current expenses as defined in section 7.

(e) Submit the following to the Government for prior review and approval not less than ____ days before the effective dates, unless approval is waived by the Government:

(1) Annual budgets and operating plans.

(2) Statements of management policy and practice, including eligibility criteria and implementing rules for occupancy of the housing.

(3) Proposed rents and charges and other terms of rental agreements.

(4) Rates of compensation to officers and employees of the Corporation payable from or chargeable to any account provided for in this resolution.

(f) If required by the Government, modify and adjust any matters covered by clause (e) of this section.

(g) Comply with all its agreements and obligations in or under the note, security instrument, and any related agreement executed by the Corporation in connection with the loan.

(h) Not alter, amend, or repeal without the Government's consent this resolution or the bylaws or articles of incorporation of the Corporation, which shall constitute parts of the total contract between the Corporation and the Government relating to the loan obligations.

(i) Do other things as may be required by the Government in connection with the operation of the housing, or with any of the Corporation's operations or affairs which may affect the housing, the loan obligations, or the security.

11. *Refinancing of Loan.* If at any time it appears to the Government that the Corporation is able to obtain a loan upon reasonable terms and conditions to refinance the loan obligations then outstanding, upon request from the Government the Corporation will apply for, take all necessary actions to obtain, and accept such refinancing loan and will use the proceeds for said purpose.

12. *General Provisions.*

(a) It is expressly understood and agreed that any loan made will be administered subject to the limitations of the authorizing act of Congress and related regulations, and that any rights granted to the Government herein or elsewhere may be exercised by it in its sole discretion to carry out the purposes of the loan, enforce such limitations, and protect the Government's financial interest in the loan and the security.

(b) The provisions of this resolution are representations to the Government to induce the Government to make a loan to the Corporation as aforesaid. If the Corporation should fail to comply with or perform any provision of this resolution or any requirement made by the Government pursuant to this resolution, such failure shall constitute default as fully as default in payment of amounts due on the loan obligations. In the event of such failure, the Government at its option may declare the entire amount of the loan obligations immediately due and payable, and, if such entire amount is not paid forthwith, may take possession of and operate the housing and proceed to foreclose its security and enforce all other available remedies.

(c) Upon request by the Government the Corporation will permit representatives of the Government to inspect and make copies of any of the records of the Corporation pertaining to this loan. Such inspection and copying may be made during regular office hours of the Corporation, or any other time the Corporation and the Government finds convenient.

(d) Any provisions of this resolution may be waived by the Government in its sole discretion, or changed by agreement between the Government and the Corporation, after this resolution becomes contractually binding, to any extent such provisions could legally have been foregone, or agreed to in amended form, by the Government initially.

(e) Any notice, consent, approval, waiver, or agreement must be in writing.

(f) This resolution may be cited in the security instrument and any other instruments or agreements as the "Loan Resolution of (date of this resolution) 19____."

Certificate

The undersigned, _____, the Secretary of the Corporation identified in the foregoing Loan Resolution, hereby certifies that the foregoing is a true copy of a resolution duly adopted by the board of directors on _____ 19____, which has not been altered, amended, or repealed.

(Date)

(Secretary)

[44 FR 59199, Oct. 15, 1979, as amended at 46 FR 36112, July 14, 1981]

EXHIBIT D TO SUBPART D OF PART 1944—
LOAN AGREEMENT

(LH INSURED LOAN TO INDIVIDUAL)

1. *Parties and Terms Defined.* This agreement dated _____ of the Undersigned _____, herein called "Borrower" whether one or more, whose post office address is _____, with the United States of America acting through the Farmers Home Administration or its successor agency under Public Law 103-354, United States Department of Agriculture, herein called "the Government," is made in consideration of a loan, herein called "the loan," to Borrower in the amount of \$ _____ made or insured, or to be made or insured by the Government pursuant to title V of the Housing Act of 1949 to provide housing and related facilities for domestic farm laborers. Such housing and related facilities, together with the site, may be referred to herein as "the housing." The indebtedness and other obligations of Borrower under the note evidencing the loan, the related security instrument, and any related agreement are herein called the "loan obligations."

2. *Equal Opportunity and Nondiscrimination Provisions.* The borrower will comply with (a) any undertakings and agreements required by the Government pursuant to Executive Order 11063 regarding nondiscrimination in the use and occupancy of housing, (b) Farmers Home Administration or its successor agency under Public Law 103-354 Form FmHA or its successor agency under Public Law 103-354 400-1 entitled "Equal Opportunity Agreement," including an "Equal Opportunity Clause" to be incorporated in or attached as a rider to each construction contract the amount of which exceeds \$10,000 and any part of which is paid for with funds from the loan, (c) Farmers Home Administration or its successor agency under Public Law 103-354 Form FmHA or its successor agency under Public Law 103-354 400-4, entitled "Nondiscrimination Agreement (Under Title VI, Civil Rights Act of 1964)," a copy of which is attached hereto and made a part hereof, and any other undertakings and agreements required by the Government pursuant to lawful authority.

3. *Supervised Bank Account.* The proceeds of the note and the amount of \$ _____ to be contributed by the borrower from its own funds and used for eligible loan purposes

shall be deposited in a "supervised bank account" as required by the Government.¹ Amounts in the supervised bank account exceeding \$100,000 shall be secured by the financial institution in advance in accordance with U.S. Treasury Department Circular No. 176. As provided therein shall, until duly expended, collaterally secure the loan obligations. Withdrawals from the supervised bank account by the borrower shall be made only on checks signed by the _____ of the borrower and countersigned by a representative of the Farmers Home Administration or its successor agency under Public Law 103-354, and only for the specific loan purposes approved in writing by the Government. The borrower's share of any liquidated damages or other monies paid by defaulting contractors or their sureties shall be deposited in the supervised bank account to assure completion of the project. When all approved items eligible for payment with loan funds are paid in full, any balance remaining in the supervised bank account shall be applied on the note as an "extra payment" as defined in the regulations of the Farmers Home Administration or its successor agency under Public Law 103-354, and the supervised bank account shall be closed.

4. *Accounts for Housing Operations and Loan Servicing.* Borrower shall establish on his books the following accounts, which shall be maintained so long as the loan obligations remain unsatisfied: A General Fund Account, an operation and Maintenance Account, a Debt Service Account, and a Reserve Account. Funds in said accounts shall be deposited in a bank or banks insured by the Federal Deposit Insurance Corporation, except for any portion invested in readily marketable obligations of the United States as authorized by section 8(a).

5. *General Fund Account.* By the time the loan is closed Borrower shall from his own funds deposit in the General Fund Account the amount of \$ _____. All income and revenue from the housing shall upon receipt be immediately deposited in the General Fund Account. Borrower may also in his discretion at any time deposit therein other funds, not otherwise provided for by this agreement, to be used for any of the purposes authorized in sections 6, 7, or 8. Funds in the General Fund Account shall be used only as authorized in said sections and, until so used, shall be held by Borrower in trust for the Government as security for the loan obligations.

6. *Operation and Maintenance Account.* Not later than the 15th of each month out of the General Fund Account shall be transferred to the Operation and Maintenance Account

sufficient amounts to enable Borrower to pay from the Operation and Maintenance Account the actual, reasonable, and necessary current expenses, for the current month and the ensuing month, of operating and maintaining the housing not otherwise provided for. Current expenses may include, in addition to expenses occurring or becoming due monthly, monthly accumulations of proportionate amounts for the payment of items which may become due either annually or at irregular intervals, such as taxes, insurance, and normal repair and replacement of furnishings and equipment reasonably necessary for operation of the housing. Current expenses may also include initial purchase and installation of such furnishings and equipment with any funds deposited in and transferred from the General Fund Account which are not proceeds of the loan or income or revenue from the housing.

7. *Debt Service Account.* Each month, immediately after the transfer to the Operation and Maintenance Account provided for in section 6, or after it is determined that no such transfer is called for, any balance remaining in the General Fund Account, or so much thereof as may be necessary, shall be transferred to the Debt Service Account until the amount in the Debt Service Account equals the amount of the next installment due on the loan. Funds in the Debt Service Account shall be used only for payments on the loan obligations and, until so used, shall be held by Borrower in trust for the Government as security therefor.

8. *Reserve Account.*

(a) Immediately after each transfer to the Debt Service Account as provided in section 7, any balance in the General Fund Account shall be transferred to the Reserve Account. Funds in the Reserve Account may be used only as authorized in this agreement and until so used shall be held by the Borrower in trust as security for the loan obligations. Transfers at a rate not less than \$ _____¹ annually shall be made to the Reserve Account until the amount in the Reserve Account reaches the sum of \$ _____² and shall be resumed at any time when necessary, because of disbursements from the Reserve Account, to restore it to said sum. Of such sum, at least 50 percent shall be maintained on a cash basis, referred to herein as the "cash reserve." After the cash reserve reaches the required 50 percent of said sum, all or any portion of the balance of said sum may, at the option of Borrower, consist of an amount, referred to as the "prepayment reserve," by which Borrower is "ahead of schedule" as defined in

¹In most cases this figure should be one-tenth of the aggregate sum specified later in the sentence as indicated by footnote 2.

²The amount to be inserted will usually be about 10 percent of the value of the buildings and related facilities financed wholly or partially with the loan.

the regulations of the Farmers Home Administration or its successor agency under Public Law 103-354. Funds in the cash reserve shall be deposited in a separate bank account or accounts insured by the Federal Deposit Insurance Corporation or invested in readily marketable obligations of the United States, the earnings on which shall accrue to the Reserve Account.

(b) With the prior consent of the Government, funds in the Reserve Account may be used by Borrower—

(1) To meet payments due on the loan obligations in the event the amount in the Debt Service Account is not sufficient for the purpose.

(2) To pay costs of repairs or replacements to the housing caused by catastrophe or long-range depreciation which are not current expenses under section 6.

(3) To make improvements or extensions to the housing.

(4) For other purposes desired by Borrower which in the judgment of the Government likely will promote the loan purposes without jeopardizing collectibility of the loan or impairing the adequacy of the security, or will strengthen the security, or will facilitate, improve, or maintain the orderly collectibility of the loan.

(5) For any purpose desired by Borrower, provided Borrower determines that after such disbursement (a) the amount in the Reserve Account will be not less than that required by subsection 8(a) to be accumulated by that time, and (b) during the next 12 months the amount in the Reserve Account will likely not fall below that required to be accumulated by the end of such period.

(c) Any amount in the Reserve Account which exceeds the aggregate sum specified in subsection 8(a) and is not agreed between the borrower and the Government to be used for purposes authorized in subsection 8(a) shall be applied promptly on the loan obligations.

9. *Regulatory Covenants.* So long as the loan obligations remain unsatisfied, Borrower shall—

(a) Impose and collect such fees, assessments, rents, and charges that his income will be sufficient at all times for operation and maintenance of the housing, payments on the loan obligations, and maintenance of the accounts herein provided for.

(b) Maintain complete books and records relating to his financial affairs, cause such books and records to be audited at the end of each fiscal year, promptly furnish the Government without request a copy of each audit report, and permit the Government to inspect such books and records at all reasonable times.

(c) If required by the Government, revise the accounts herein provided for, or establish new accounts, to cover handling and disposition of income from and payment of expenses attributable to the housing or to any other

property securing the loan obligations, and submit regular and special reports concerning the housing or Borrower's financial affairs.

(d) Unless the Government gives prior consent—

(1) Not use the housing for any purpose other than as labor housing and related facilities for domestic farm laborers.

(2) Not enter into any contract or agreement for improvements or extensions to the housing or other property securing the loan obligations.

(3) Not cause or permit the transfer or encumbrance of title to the housing or any part thereof or interest therein, by sale, mortgage, lease, or otherwise.

(e) Submit the following to the Government for prior review and approval not less than _____ days before the effective dates.

(1) Annual budgets and operating plans, including proposed rents and charges and other terms of rental agreements for occupancy and compensation to employees chargeable as operating expenses of the housing.

(2) Statements of management policy and practice, including eligibility criteria and implementing rules for occupancy of the housing.

(f) If required by the Government, modify and adjust any matters covered by clause (e) of this section.

(g) Do other things as may be required by the Government in connection with the operation of the housing or with any of Borrower's operations or affairs which may affect the housing, the loan obligations, or the security.

10. *Refinancing of Loan.* If at any time it appears to the Government that Borrower is able to obtain a loan upon reasonable terms and conditions to refinance the loan obligations then outstanding, upon request from the Government, Borrower will apply for, take all necessary actions to obtain, and accept such refinancing loan and will use the proceeds for said purpose.

11. *General Provisions.*

(a) It is understood and agreed by Borrower that any loan made or insured will be administered subject to the limitations of the authorizing act of Congress and related regulations, and that any rights granted to the Government herein or elsewhere may be exercised by it in its sole discretion to carry out the purposes of the loan, enforce such limitations, and protect the Government's financial interest in the loan and the security.

(b) Borrower shall also comply with all covenants and agreements set forth in the note, security instrument, and any related agreements executed by Borrower in connection with the loan.

(c) The provisions of this agreement are representations to the Government to induce the Government to make or insure a loan to Borrower as aforesaid. If Borrower should

fail to comply with or perform any provision of this agreement or any requirement made by the Government pursuant hereto, such failure shall constitute default as fully as default in payment of amounts due on the loan. In the event of such failure, the Government at its option may declare the entire amount of the loan obligations immediately due and payable and, if such entire amount is not paid forthwith, may take possession of and operate the housing and proceed to foreclose its security and enforce all other available remedies.

(d) Upon request by the Government the Borrower will permit representatives of the Government to inspect and make copies of any of the records of the Borrower pertaining to this loan. Such inspection and copying may be made during regular office hours of the Borrower, or any other time the Borrower and the Government finds convenient.

(e) Any provisions of this agreement may be waived by the Government, or changed by agreement between the Government and Borrower to any extent such provisions could legally have been foregone, or agreed to in any amended form, by the Government initially. Any notice, consent, approval, waiver, or agreement must be in writing.

(f) This agreement may be cited in the security instrument and other instruments or agreements as the "Loan Agreement of (date of this agreement) 19____."

Witness _____
Borrower _____
Witness _____
Borrower _____

[44 FR 59199, Oct. 15, 1979, as amended at 46 FR 36112, July 14, 1981]

EXHIBIT E TO SUBPART D OF PART 1944— LOAN AND GRANT RESOLUTION

(LABOR HOUSING LOAN AND GRANT TO A
NONPROFIT CORPORATION)

Loan and Grant Resolution of _____,
19____ Resolution of the Board of Directors of _____ providing for obtaining financial assistance in the amount \$ _____ to aid in financing federally defined low-rent housing and related facilities for low-income domestic farm labor, and related matters. Whereas

(herein referred to as the "Corporation") is organized and operating under and the board of _____ (authorizing State statute) directors of the Corporation has determined that—

(a) The Corporation should provide low-rent housing and related facilities for low-income domestic farm labor, as defined in title V of the Housing Act of 1949.

(b) The estimated total cash development cost of such housing and facilities amounts to \$ _____.

(c) For such purpose the Corporation is able to furnish from its own resources \$ _____.

(d) The Corporation will need financial assistance in the amount of \$ _____ which the Corporation is unable to obtain from other sources for such purpose upon terms and conditions which the Corporation could reasonably be expected to fulfill.

(e) Of such amount of needed financial assistance the Corporation will be able to repay, with interest at 1% per annum, the amount of \$ _____ over a repayment period of _____ years, if the balance of \$ _____ is made available to the Corporation as a grant.

(f) The housing and related facilities will fulfill a pressing need in the area in which they are or will be located.

(g) The housing and facilities cannot be provided without the aid of a grant in the amount stated above:

Therefore Be It Resolved:

1. *Application for Loan and Grant.* The Corporation shall apply to the United States of America, acting through the Farmers Home Administration or its successor agency under Public Law 103-354, United States Department of Agriculture (herein called "the Government") for a loan of \$ _____ and a grant of \$ _____, pursuant to Title V of the Housing Act of 1949. Such loan may be insured by the Government. The loan and the grant shall be used only for the specific eligible purposes approved by the Government, in order to provide low-rent housing and related facilities for low-income domestic farm labor. Such housing and facilities and the land constituting the site may be referred to herein as the "housing."

2. *Execution of Loan and Grant Instruments.* To evidence the loan the Corporation shall issue a promissory note (herein referred to as "the Note"), signed by its President and attested by its Secretary, with its corporate seal affixed thereto, for the amount of the loan, payable in installments over a period of _____ years, bearing interest at a rate not to exceed _____ percent per annum, and containing other terms and conditions prescribed by the Government. To evidence the obligations of the grant, the Corporation shall execute an instrument in the form attached hereto entitled "Labor Housing Grant Agreement" and referred to herein as the "Grant Agreement," evidencing terms and conditions upon which the grant is made by the Government and the obligations of the Corporation with respect thereto. To secure the note and/or all other obligations and agreements of the Corporation with respect to the loan and the grant, as required by the

Government, the President and the Secretary are hereby authorized to execute a security instrument giving a lien upon or security interest in the housing and such other property as the Government shall require, including an assignment of or security interest in the rents and profits as collateral security to be enforceable in the event of any default by the Corporation. The President and the Secretary are further authorized to execute any other security and other instruments, agreements, and documents required by the Government for the loan or grant. The indebtedness and other obligations of the Corporation under the note, Grant Agreement, this resolution, the security instrument, and any other instruments and agreements related to the loan or grant are herein called the "loan and grant obligations."

3. *Equal Employment Opportunity under Construction Contracts and Nondiscrimination in the Use of Occupancy and Housing and in Any Other Benefits of the Loan or Grant.* The President and the Secretary are hereby authorized and directed to execute on behalf of the Corporation (a) any undertakings and agreements required by the Government regarding nondiscrimination in the use and occupancy of housing, (b) Farmers Home Administration or its successor agency under Public Law 103-354 Form FmHA or its successor agency under Public Law 103-354 400-1, "Equal Opportunity Agreement," involving an Equal Opportunity Clause to be incorporated in or attached as a rider to each construction contract which exceeds \$10,000 in amount and is paid for in whole or in part with loan or grant funds, and (c) Farmers Home Administration or its successor agency under Public Law 103-354 Form FmHA or its successor agency under Public Law 103-354 400-4, "Nondiscrimination Agreement (Under Title VI, Civil Rights Act of 1964)," a copy of which is attached hereto and made a part hereof.

4. *Supervised Bank Account.* The proceeds of the loan and grant and the amount of \$_____ to be contributed by the Corporation from its own funds and used for approved eligible purposes shall be deposited in a "supervised bank account" as required by the Government.¹ Amounts in the supervised bank account exceeding \$100,000 shall be secured by the financial institution in advance in accordance with U.S. Treasury Department Circular No. 176. As provided by the terms of the agreement creating the supervised bank account, all funds therein shall, until duly expended, collaterally secure the loan and grant obligations. Withdrawals

¹Only loan or grant funds, and borrower's funds to be used for an eligible loan or grant purpose, may be deposited in the supervised bank account.

from the supervised bank account by the Corporation shall be made only on checks signed by the _____ of the Corporation and countersigned by the County Supervisor or other authorized official of the Farmers Home Administration or its successor agency under Public Law 103-354, and only for the specific eligible purposes approved in writing by the Government. The Corporation's share of any liquidated damages or other monies paid by defaulting contractors of their sureties shall be deposited in the supervised bank account to assure completion of the project. When all approved items eligible for payment with loan or grant funds are paid in full, any balance remaining in the supervised bank account shall be treated as a refund of loan and grant funds in the same ratio as that between the amounts of the loan and grant, and the supervised bank account shall be closed.

5. *Accounts for Housing Operations and Loan Servicing.* The Corporation shall establish on its books the following accounts, which shall be maintained so long as the loan or grant obligations continue: A General Fund Account, an Operation and Maintenance Account, a Debt Service Account, and a Reserve Account. Funds in said accounts shall be deposited in a bank or banks insured by the Federal Deposit Insurance Corporation, except for any portion invested in readily marketable obligations of the United States as authorized by section 9. The Treasurer of the Corporation shall execute a fidelity bond, with a surety company approved by the Government, in an amount not less than the estimated maximum amount of such funds to be held in said accounts at any one time. The United States of America shall be named as co-obligee, and the amount of the bond shall not be reduced without the prior written consent of the Government. The Corporation in its discretion may at any time establish and utilize additional accounts to handle any funds not covered by the provisions of this resolution.

6. *General Fund Account.* By the time the loan and grant are closed the Corporation shall from its own funds deposit in the General Fund Account the amount of \$_____. All income and revenue from the housing shall upon receipt be immediately deposited in the General Fund Account. The Corporation may also in its discretion at any time deposit therein other funds, not otherwise provided for by this resolution, to be used for any of the purposes authorized in sections 7, 8, or 9. Funds in the General Fund Account shall be used only as authorized in said sections and, until so used, shall be held by the Corporation in trust for the Government as security for the loan and grant obligations.

7. *Operation and Maintenance Account.* Not later than the 15th of each month, out of the General Fund Account shall be transferred to the Operation and Maintenance Account,

sufficient amounts to enable the Corporation to pay from the Operation and Maintenance Account the actual, reasonable, and necessary current expenses, for the current month and the ensuing month, of operating and maintaining the housing not otherwise provided for. Current expenses may include, in addition to expenses occurring or becoming due monthly, monthly accumulations of proportionate amounts for the payment of items which may become due either annually or at irregular intervals, such as taxes and insurance and normal repair and replacement of furnishings and equipment reasonably necessary for operation of the housing. Current expenses may also include initial purchase and installation of such furnishings and equipment with any funds deposited in and transferred from the General Fund Account which are not proceeds of the loan and, unless the Government gives prior written consent, are not income or revenue from the housing.

8. *Debt Service Account.* Each month, immediately after the transfer to the Operation and Maintenance Account provided for in section 7, or after it is determined that no such transfer is called for, any balance remaining in the General Fund Account, or so much thereof as may be necessary, shall be transferred to the Debt Service Account until the amount in the Debt Service Account equals the amount of the next installment due on the loan. Funds in the Debt Service Account shall be used only for payments on the loan obligations while they continue and, until so used, shall be held by the Corporation in trust for the Government as security for the loan and grant obligations.

9. *Reserve Account.* (a) Immediately after each transfer to the Debt Service Account as provided in section 8, any balance in the General Fund Account shall be transferred to the Reserve Account. Funds in the Reserve Account may be used only as authorized in this resolution and until so used shall be held by the Corporation in trust as security for the loan and grant obligations. Transfers at a rate not less than \$ _____,² annually shall be made to the Reserve Account until the amount in the Reserve Account reaches the sum of \$ _____³ and shall be resumed at any time when necessary, because of disbursements from the Reserve Account, to restore it to said sum. Of such sum, at least 50 percent shall be

maintained on a cash basis, referred to herein as the "cash reserve." After the cash reserve reaches the required 50 percent of said sum, all or any portion of the balance of said sum may, at the option of the Corporation, consist of an amount, referred to herein as the "prepayment reserve," by which the Corporation is "ahead of schedule" as defined in the regulations of the Farmers Home Administration or its successor agency under Public Law 103-354. Funds in the cash reserve shall be deposited in a separate bank account or accounts insured by the Federal Deposit Insurance Corporation or invested in readily marketable obligations of the United States, the earnings on which shall accrue to the Reserve Account.

(b) With the prior consent of the Government, funds in the Reserve Account may be used by the Corporation—

(1) To meet payments due on the loan obligations in the event the amount in the Debt Service Account is not sufficient for the purpose.

(2) To pay costs of repairs or replacements to the housing caused by catastrophe or long-range depreciation which are not current expenses under section 7.

(3) To make improvements or extensions to the housing.

(4) For other purposes desired by the Corporation which in the judgment of the Government likely will promote the loan or grant purposes without jeopardizing collectibility of the loan or impairing the adequacy of the security, or will strengthen the security, or will facilitate, improve, or maintain the orderly collectibility of the loan.

(c) Any amount in the Reserve Account which exceeds the sum specified in subsection (a), and is not agreed between the Corporation and the Government to be used for purposes authorized in subsection (b) shall be applied promptly on the loan obligations.

10. *Regulatory Covenants.* So long as the loan or grant obligations continue, the Corporation shall—

(a) Impose and collect such fees, assessments rents, and charges that the income of the Corporation will be sufficient at all times for operation and maintenance of the housing payments on the loan obligations, and maintenance of the accounts herein provided for.

(b) Maintain complete books and records relating to the Corporation's financial affairs, cause such books and records to be audited at the end of each fiscal year, promptly furnish the Government without request a copy of each audit report, and permit the Government to inspect such books and records at all reasonable times.

(c) If required or permitted by the Government, revise the accounts herein provided for, or establish new accounts to cover handling and disposition of income from the payment of expenses attributable to the

²In most cases this figure should be one-tenth of the aggregate sum specified later in the sentence as the total amount of the Reserve Account.

³The amount to be inserted will usually be about 10 percent of the value of the buildings and related facilities financed wholly or partially with the loan and grant.

housing or to any other property securing the loan or grant obligations, and submit to the Government regular and special reports concerning the housing or the Corporation's financial affairs, including any information required by the Government regarding income of the occupants of the housing.

(d) Unless the Government gives prior consent—

(1) Not use or permit use of the housing for any purpose other than as low-rent housing and related facilities for low-income domestic farm labor, as those terms are defined by the Government.

(2) Not enter into any contract or agreement for improvements or extensions to the housing or other property securing the loan or grant obligations.

(3) Not cause or permit voluntary dissolution of the Corporation, nor merge or consolidate with any other organization, nor transfer or encumber title to the housing or any part thereof or interest therein, by sale, mortgage, lease, or other conveyance or encumbrance, nor engage in any other new business, enterprise, or venture than operation of the housing.

(4) Not borrow any money, nor incur any liability aside from current expenses as defined in Section 7.

(e) Submit the following to the Government for prior review not less than _____ days before the effective dates:

(1) Annual budgets and operating plans.

(2) Statements of management policy and practice including eligibility criteria and implementing rules for occupancy of the housing.

(3) Proposed rents and charges and other terms of rental agreements for occupancy of the housing.

(4) Rates of compensation to officers and employees of the Corporation payable from or chargeable to any account provided for in this resolution.

(f) If required by the Government, modify and adjust any matters covered by clause (e) of this section.

(g) Comply with all its agreements and obligations in or under this resolution, the note, Grant Agreement, security instrument, and any related agreement executed by the Corporation in connection with the loan or grant.

(h) Not alter, amend, or repeal without the Government's consent this resolution or the bylaws or articles of incorporation of the Corporation, which shall constitute parts of the total contract between the Corporation and the Government relating to the loan and grant obligations.

(i) Do other things as may be required by the Government in connection with the operation of the housing, or with any of the Corporation's operations or affairs which may affect the housing, the loan or grant obligations, or the security.

11 *Refinancing of Loan.* If at any time it appears to the Government that the Corporation is able to obtain a loan upon reasonable terms and conditions to refinance the loan obligations then outstanding, upon request from the Government, the Corporation will apply for, take all necessary actions to obtain, and accept such refinancing loan and will use the proceeds for said purpose.

12 *General Provisions.* (a) It is understood and agreed by the Corporation that any loan or grant will be administered subject to the limitations of the authorizing act of Congress and related regulations, and that any rights granted to the Government herein or elsewhere may be exercised by it in its sole discretion to carry out the purposes of the loan and grant, enforce such limitations, and protect the Government's financial interest in the loan and grant and the security.

(b) The provisions of this resolution are representations of the Corporation to induce the Government to make or insure a loan or make a grant to the Corporation as aforesaid. If the Corporation should fail to comply with or perform any of its loan or grant obligations, such failure shall constitute default as fully as default in payment of amounts due on the loan obligations. In the event of default, the Government at its option may declare the entire amount of the loan and grant obligations immediately due and payable and, if such entire amount is not paid forthwith, may take possession of and operate the housing and proceed to foreclose its security and enforce all other available remedies.

(c) Upon request by the Government the corporation will permit representatives of the Government to inspect and make copies of any of the records of the corporation pertaining to the financial assistance. Such inspection and copying may be made during regular office hours of the corporation, or any other time the corporation and the Government finds convenient.

(d) Any provisions of this resolution may be waived by the Government in its sole discretion, or changed by agreement between the Government and the Corporation, after this resolution becomes contractually binding, to any extent such provisions could legally have been foregone, or agreed to in amended form, by the Government initially.

(e) Any notice, consent, approval, waiver, or agreement must be in writing.

(f) This resolution may be cited in the security instrument and elsewhere as the "Loan and Grant Resolution of (date of this resolution) _____ 19____."

Certificate

The undersigned, _____, the Secretary of the corporation identified in the foregoing resolution, hereby certifies that the foregoing is a true copy of a resolution duly adopted by the board of directors

RHS, RBS, RUS, FSA, USDA

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on _____ 19____, which has not been altered, amended, or repealed.

Date _____

Secretary _____
[SEAL]

[44 FR 59199, Oct. 15, 1979, as amended at 46 FR 36112, July 14, 1981]

**EXHIBIT F TO SUBPART D OF PART 1944—
LABOR HOUSING GRANT AGREEMENT**

THIS AGREEMENT dated _____, 19____, between— _____

which is organized and operating under _____

(Authorizing statute)
herein called "Grantee," and the United States of America acting through the Farmers Home Administration or its successor agency under Public Law 103-354, Department of Agriculture, herein called "Grantor," WITNESSETH:

Whereas Grantee has determined to undertake a project of acquisition, construction, enlargement and/or capital improvement of a Labor Housing Project to serve domestic farm laborers at an estimated cost of \$ _____ and has duly authorized the undertaking of such project.

Grantee is able to finance not more than \$ _____ of the development costs through revenues, charges, taxes or assessments, or funds otherwise available to Grantee resulting in a reasonable rental rate.

Said sum of \$ _____ has been committed to and by Grantee for such project development costs.

Grantor has agreed to grant the Grantee a sum not to exceed \$ _____ subject to the terms and conditions established by the Grantor. Provided, however, that the proportionate share of any grant funds actually advanced and not needed for grant purposes shall be returned immediately to the Grantor. The Grantor may terminate the grant in whole, or in part, at any time before the date of completion, whenever it is determined that the Grantee has failed to comply with the conditions of the grant.

Now therefore, in consideration of said grant by Grantor to Grantee, to be made pursuant to Section 516 of the Housing Act of 1949 for the purpose only of defraying a part not to exceed _____ percent of the development costs, as defined by applicable Farmers Home Administration or its successor agency under Public Law 103-354 instructions.

Grantee agrees that Grantee will:

A. Cause said project to be constructed within the total sums available to it, including said grant, in accordance with the project plans and specifications and any modifications thereof prepared by Grantee and approved by Grantor.

B. Permit periodic inspection of the construction by a representative of Grantor during construction.

C. Manage, operate and maintain the project, including these units if less than the whole of said project, continuously in an efficient and economic manner.

D. Make services of said project available within its capacity to all domestic farm laborers in borrowers/grantees service area without discrimination because of race, color, religion, sex, age, handicap, marital or familial status, or National origin at reasonable rental rates, whether for one or more types of units, adopted by resolution dated _____ 19____, as may be revised from time to time by Grantee. The initial rental rates must be approved by the Grantor. Thereafter, Grantee may not make changes to the rental rate structure without prior authorization from the Grantor.

E. Adjusts its operating costs and service charges from time to time to provide for adequate operation and maintenance, emergency repair reserves, obsolescence reserves, debt service and debt service reserves.

F. Provide Grantor with such periodic reports as it may require and permit periodic inspection of its operations by a representative of the Grantor.

G. To execute Form FmHA or its successor agency under Public Law 103-354 400-1, "Equal Opportunity Agreement," and to execute Form 400-4, "Assurance Agreement," and to execute any other agreements required by Grantor which Grantee is legally authorized to execute. If any such form has been executed by Grantee as a result of a loan being made to Grantee by Grantor contemporaneously with the making of this grant, another form of the same type need not be executed in connection with this grant.

H. Upon any default under its representations or agreements set forth in this instrument, Grantee, at the option and demand of Grantor, will repay to Grantor forthwith the original principal amount of the grant stated hereinabove, with interest at the rate of 5 percentum per annum from the date of the default. Default by the Grantee will constitute termination of the grant thereby causing cancellation of Federal assistance under the grant. The Provisions of this Grant agreement may be enforced by Grantor, at its option and without regard to prior waivers by it of previous defaults of Grantee, by judicial proceedings to require specific performance of the terms of this Grantee Agreements or by such other proceedings in law or equity, in either Federal or State courts, as may be deemed necessary by Grantor to assure compliance with the provisions of this Grant Agreement and the laws and regulations under which this grant is made.

I. Return immediately to Grantor, as required by the regulations of Grantor, any grant funds actually advanced and not needed by Grantee for approved purposes.

J. Use the real property including land, land improvements, structures, and appurtenances thereto, for authorized purposes of the grant as long as needed.

1. Title to real property shall vest in the recipient subject to the condition that the Grantee shall use the real property for the authorized purpose of the original grant as long as needed.

2. The Grantee shall obtain approval by the Grantor agency for the use of the real property in other projects when the Grantee determines that the property is no longer needed for the original grant purposes. Use in other projects shall be limited to those under other Federal grant programs or programs that have purposes consistent with those authorized for support by the Grantor.

3. When the real property is no longer needed as provided in 1 and 2 above, the Grantee shall request disposition instructions from the Grantor agency or its successor Federal agency. The Grantor agency shall observe the following rules in the disposition instructions.

(a) The Grantee may be permitted to retain title after it compensates the Federal Government in an amount computed by applying the Federal percentage of participation in the cost of the original project to the fair market value of the property.

(b) The Grantee may be directed to sell the property under guidelines provided by the Grantor agency and pay the Federal Government an amount computed by applying the Federal percentage of participation in the cost of the original project to the proceeds from sale (after deducting actual and reasonable selling and fix-up expenses, if any, from the sales proceeds). When the Grantee is authorized or required to sell the property, proper sales procedures shall be established that provide for competition to the extent practicable and result in the highest possible return.

(c) The Grantee may be directed to transfer title to the property to the Federal Government provided that in such cases the Grantee shall be entitled to compensation computed by applying the Grantee's percentage of participation in the cost of the program or project to the current fair market value of the property.

This Grant Agreement covers the following described real property (use continuation sheets as necessary).

K. Abide by the following conditions pertaining to nonexpendable personal property which is furnished by the Grantor or acquired wholly or in part with grant funds. Nonexpendable personal property means tangible personal property having a useful life of more than one year and an acquisition

cost of \$300 or more per unit. A Grantee may use its own definition of nonexpendable personal property provided that such definition would at least include all tangible personal property as defined above.

1. Use of nonexpendable property.

(a) The Grantee shall use the property in the project for which it was acquired as long as needed. When no longer needed for the original project, the Grantee shall use the property in connection with its other Federally sponsored activities, if any, in the following order of priority:

(1) Activities sponsored by the FmHA or its successor agency under Public Law 103-354.

(2) Activities sponsored by other Federal agencies.

(b) During the time that nonexpendable personal property is held for use on the project for which it was acquired, the Grantee shall make it available for use on other projects if such other use will not interfere with the work on the project for which the property was originally acquired. First preference for such other use shall be given to FmHA or its successor agency under Public Law 103-354 sponsored projects. Second preference will be given to other Federally sponsored projects.

2. Disposition of nonexpendable property. When the Grantee no longer needs the property as provided in paragraph (a) above, the property may be used for other activities in accordance with the following standards:

(a) Nonexpendable property with a unit acquisition cost of less than \$1000. The Grantee may use the property for other activities without reimbursement to the Federal Government or sell the property and retain the proceeds.

(b) Nonexpendable personal property with a unit acquisition cost of \$1000 or more. The Grantee may retain the property for other uses provided that compensation is made to the original Grantor agency or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value of the property. If the Grantee has no need for the property and the property has further use value, the Grantee shall request disposition instructions from the original Grantor agency.

The Grantor agency shall determine whether the property can be used to meet the agency's requirements. If no requirement exists within the agency, the availability of the property shall be reported, in accordance with the guidelines of the Federal Property Management Regulations (FPMR), to the General Services Administration by the Grantor agency to determine whether a requirement for the property exists in other Federal agencies. The Grantor agency shall issue instructions to the Grantee no later

than 120 days after the Grantee request and the following procedures shall govern:

(1) If so instructed or if disposition instructions are not issued within 120 calendar days after the Grantee's request, the Grantee shall sell the property and reimburse the Grantor agency an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the Grantee shall be permitted to deduct and retain from the Federal share \$100 or ten percent of the proceeds, whichever is greater, for the Grantee's selling and handling expenses.

(2) If the Grantee is instructed to ship the property elsewhere the Grantee shall be reimbursed by the benefitting Federal agency with an amount which is computed by applying the percentage of the Grantee participation in the cost of the original grant project or program to the current fair market value of the property, plus any reasonable shipping or interim storage costs incurred.

(3) If the Grantee is instructed to otherwise dispose of the property, the Grantee shall be reimbursed by the Grantor agency for such costs incurred in its disposition.

3. The Grantee's property management standards for nonexpendable personal property shall also include:

(a) Property records which accurately provide for: a description of the property; manufacturer's serial number or other identification number; acquisition date and cost; source of the property; percentage (at the end of budget year) of Federal participation in the cost of the project for which the property was acquired; location, use and condition of the property and the date the information was reported; and ultimate disposition data including sales price or the method used to determine current fair market value if the Grantee reimburses the Grantor for its share.

(b) A physical inventory of property shall be taken and the results reconciled with the property records at least once every two years to verify the existence, current utilization, and continued need for the property.

(c) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft of nonexpendable property shall be investigated and fully documented.

(d) Adequate maintenance procedures shall be implemented to keep the property in good condition.

(e) Proper sales procedures shall be established for unneeded property which would provide for competition to the extent practicable and result in the highest possible return.

This Grant Agreement covers the following described nonexpendable property (use continuation sheets as necessary).

L. Provide Financial Management Systems which will include:

1. Accurate, current, and complete disclosure of the financial results of each grant. Financial reporting will be on an accrual basis.

2. Records which identify adequately the source and application of funds for grant-supported activities. Those records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.

3. Effective control over and accountability for all funds, property and other assets. Grantees shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.

4. Accounting records supported by source documentation.

M. Retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of at least three years after grant closing except that the records shall be retained beyond the three-year period if audit findings have not been resolved. Microfilm copies may be substituted in lieu of original records. The Grantor and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Grantee's government which are pertinent to the specific grant program for the purpose of making audits, examinations, excerpts and transcripts.

N. Provide information as requested by the Grantor to determine the need for and complete any necessary Environmental Impact Statements.

O. Provide an audit report prepared in sufficient detail to allow the Grantor to determine that funds have been used in compliance with the proposal, any applicable laws and regulations and this Agreement.

P. Agree to account for and to return to Grantor interest earned on grant funds pending their disbursement for program purposes when the Grantee is a unit of local government. States and agencies or instrumentalities of states shall not be held accountable for interest earned on grant funds pending their disbursement.

Q. Not encumber, transfer or dispose of the property or any part thereof, furnished by the Grantor or acquired wholly or in part with Grantor funds without the written consent of the Grantor except as provided in item J above.

R. To include in all contracts for construction or repair a provision for compliance with the Copeland "Anti-Kick Back" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR, part 3). The Grantee shall report all suspected or reported violations to the Grantor.

S. Pay all laborers and mechanics employed by contractors and subcontractors wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5).

T. In construction contracts in excess of \$2,000 and in other contracts in excess of \$2,500 which involve the employment of mechanics or laborers, to include a provision for compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR, part 5).

U. To include in all contracts in excess of \$100,000 a provision that the contractor agrees to comply with all the requirements of Section 114 of the Clean Air Act (42 U.S.C. §1875C-9) and Section 308 of the Water Pollution Control Act specified in Section 114 of the Clean Air Act and Section 308 of the Water Pollution Control Act and all regulations and guidelines issued thereunder after the award of the contract. Such regulations and guidelines can be found in 40 CFR 15.4 and 40 FR 17126 dated April 16, 1975. In so doing the Contractor further agrees:

1. As condition for the award of contract to notify the Owner of the receipt of any communication from the Environmental Protection Agency (EPA) indicating that a facility to be utilized in the performance of the contract is under consideration to be listed on the EPA list of Violating Facilities. Prompt notification is required prior to contract award.

2. To certify that any facility to be utilized in the performance of any nonexempt contractor subcontract is not listed on the EPA list of Violating Facilities. Prompt notification is required prior to contract award.

3. To include or cause to be included the above criteria and the requirements in every nonexempt subcontract and that the Contractor will take such action as the Government may direct as a means of enforcing such provisions.

As used in these paragraphs the term *facility* means any building, plan, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by a Grantee, cooperator, contractor, or subcontractor, to be utilized in the performance of a grant, agreement, contract, subgrant, or subcontract. Where a location or site of operation contains or includes more than one building, plant, installation, or structure, the entire location shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are co-located in one geographical area.

Grantor agrees that it: A. Will make available to Grantee for the purpose of this

Agreement not to exceed \$ _____ which it will advance to Grantee to meet not to exceed _____ percent of the development costs of the project in accordance with the actual needs of Grantee as determined by Grantor.

B. Will assist Grantee, within available appropriations, with such technical assistance as Grantor deems appropriate in planning the project and coordinating the plan with local official comprehensive plans and with any State or area plans for the area in which the project is located.

C. At its sole discretion and at any time may give any consent, deferment, subordination, release, satisfaction, or termination of any or all of Grantee's grant obligations, with or without available consideration, upon such terms and conditions as Grantor may determine to be (1) advisable to further the purpose of the grant or to protect Grantor's financial interest therein and (2) consistent with both the statutory purposes of the grant and the limitations of the statutory authority under which it is made.

Termination of This Agreement

This agreement may be terminated for cause in the event of default on the part of the Grantee as provided in paragraph I above or for convenience of the Grantor and Grantee prior to the date of completion of the grant purpose. Termination for convenience will occur when both the Grantee and Grantor agree that the continuation of the project will not produce beneficial results commensurate with the further expenditure of funds.

In witness whereof Grantee on the date first above written has caused these presence to be executed by its duly authorized

and attested and its corporate seal affixed by its duly authorized

ATTEST:

By _____
(Title)

By _____
(Title)

UNITED STATES OF AMERICA, FARMERS HOME
ADMINISTRATION OR ITS SUCCESSOR AGENCY
UNDER PUBLIC LAW 103-354

By _____
(Title)

[44 FR 59199, Oct. 15, 1979, as amended at 55
FR 6245, Feb. 22, 1990]

EXHIBIT G TO SUBPART D OF PART 1944— LEGAL SERVICE AGREEMENT

Agreement made this _____ day
of _____, 19____
between the _____,
hereinafter called the owners, and
_____,
hereinafter called the attorney, witnesseth:

RHS, RBS, RUS, FSA, USDA

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Whereas the owners intent to form a corporation, hereinafter called the corporation, to construct and operate a labor housing project in

Town _____

County _____

State _____

and to obtain a loan from the Farmers Home Administration or its successor agency under Public Law 103-354 to finance the construction, and the attorney agrees to perform all legal services necessary to incorporate the Corporation, and to perform all other customary legal services necessary to the organization, financing, construction, and initial operation of the proposed rural rental housing project, such services to include but not to be restricted to the following:

1. Prepare and file necessary incorporating papers and supervise and assist in taking other necessary or incidental actions to create the Corporation and authorize it to finance, construct, and operate the proposed housing project.
2. Prepare for, and furnish advice and assistance to the owners, and to the Board of Directors and officers of the Corporation, in connection with (a) notices and conduct of meetings; (b) preparation of minutes of meetings; (c) preparation and adoption of necessary resolutions in connection with the authorization, financing, construction, and initial operation of a rural rental housing project; (d) necessary construction contracts; (e) preparation of adoption of bylaws and related documents; (f) any other action necessary for organizing the Corporation or financing, constructing, and initially operating the proposed housing project.
3. Review of construction contract, bid-letting procedure, and surety and performance bonds.
4. Examination of real estate titles and preparation, review, and recording of deeds and any other instruments.
5. Cooperation with the architect employed by the owners or the Corporation in connection with preparation of survey sheets, easements, and any other necessary title documents, construction contracts, and other instruments.
6. Rendering of legal opinions as required by the owners or the Corporation or the Farmers Home Administration or its successor agency under Public Law 103-354, United States Department of Agriculture.
7. Owners agree to pay to the attorney for professional services in accordance with this agreement, as follows:

The fees to be payable in the following manner and at the following times:

The attorney states and agrees that of the above total fees, _____ represents fees for services in connection with the organization and incorporation of the Corporation.

The owners and the attorney further covenant and agree that, if upon organization and incorporation the Corporation fails or refuses to adopt and ratify this Agreement by appropriate resolution within _____ days, this Agreement shall terminate and owners shall be liable only for payment for legal services rendered in connection with such organization and incorporation.

Signed this _____ day of _____, 19____.

Attorney: _____

Owners: _____

[44 FR 59199, Oct. 15, 1979]

**EXHIBIT H TO SUBPART D OF PART 1944—
INFORMATION PERTAINING TO PREPARATION OF NOTES OR BONDS AND
BOND TRANSCRIPT DOCUMENTS FOR
PUBLIC BODY APPLICANTS**

This exhibit includes information for use by public body applicants in the preparation and issuance of evidences of debt ("bonds" or "debt instruments"). This information is made available to applicants as appropriate for application processing and loan docket preparation.

(I) *Policies.* (i) This exhibit outlines the policies of the Farmers Home Administration (FmHA) or its successor agency under Public Law 103-354 with respect to preparation and issuance of evidences of debt (hereinafter sometimes referred to as "bonds" or "debt instruments").

(ii) Preparation of the bonds and the bond transcript documents will be the responsibility of the applicant. Public body applicants will obtain the services and opinion of recognized Bond Counsel with respect to the validity of a bond issue. The applicant normally will be represented by a local attorney who will obtain the assistance of a recognized Bond Counsel firm which has had experience in municipal financing with such investors as investment dealers, banks, and insurance companies.

(iii) At the option of the applicant for issues of \$250,000 or less, Bond Counsel may be used for the issuance of a final opinion only and not for the preparation of the other documents and of the bond docket when the applicant, FmHA or its successor agency under Public Law 103-354, and Bond Counsel have agreed in advance as to the method of

preparation of the bond transcript documents. Under such circumstances the applicant will be responsible for the preparation of the bond transcript documents.

(iv) At the option of the applicant and with the prior approval from the National Office of FmHA or its successor agency under Public Law 103-354, for issues of \$50,000 or less, the applicant need not use Bond Counsel if:

(A) The amount of the issue does not exceed \$50,000 and the applicant recognizes and accepts the fact that processing the application may require additional legal and administrative time.

(B) There is a significant cost saving to the applicant particularly with reference to total legal fees after determining what Bond Counsel would charge as compared with what the local attorney will charge without Bond Counsel.

(C) The local attorney is able and experienced in handling this type of legal work.

(D) The applicant understands that, if it is required by FmHA or its successor agency under Public Law 103-354 to refinance its loan pursuant to the statutory refinancing requirements, it will probably have to obtain at its expense a Bond Counsel's opinion at that time.

(E) All bonds will be prepared in accordance with this regulation and will conform as nearly as possible to accepted methods of preparation of similar bonds in the area.

(F) Many matters necessary to comply with FmHA or its successor agency under Public Law 103-354 requirements such as land rights, easements, and organizational documents will be handled by the applicant's local attorney. Specific closing instructions in addition to any requirements of Bond Counsel will be issued by the Office of the General Counsel of the U.S. Department of Agriculture for the guidance of FmHA or its successor agency under Public Law 103-354.

(2) *Bond transcript documents.* Any questions with respect to FmHA or its successor agency under Public Law 103-354 requirements should be discussed with local FmHA or its successor agency under Public Law 103-354 representatives. Bond Counsel is required to furnish at least two complete sets of the following to the applicant, who will furnish one complete set to FmHA or its successor agency under Public Law 103-354:

(i) Copies of all organizational documents.

(ii) Copies of general incumbency certificate.

(iii) Certified copies of minutes or excerpts therefrom of all meetings of the applicant's governing body at which action was taken in connection with the authorization and issuance of the bonds.

(iv) Certified copies of documents evidencing that the applicant has complied fully with all statutory requirements incident to calling and holding of a favorable bond elec-

tion, if such an election is necessary in connection with bond issuance.

(v) Certified copies of the resolutions or ordinances or other documents, such as the bond authorizing resolution or ordinance and any resolution establishing rates and regulating the use of the improvement, if such documents are not included in the minutes furnished.

(vi) Copies of official Notice of Sale and affidavit of publication of Notice of Sale where a public sale is required by State statute.

(vii) Specimen bond, with any attached coupons.

(viii) Attorney's no-litigation certificate.

(ix) Certified copies of resolutions or other documents pertaining to the bond award.

(x) Any additional or supporting documents required by Bond Counsel.

(xi) For loans involving multiple advances of FmHA or its successor agency under Public Law 103-354 loan funds, a preliminary approving opinion of Bond Counsel if a final unqualified opinion cannot be obtained until all funds are advanced. The preliminary opinion for the entire issue shall be delivered on or before the first advance of loan funds and state that the applicant has the legal authority to issue the bonds, construct, operate and maintain the facility, and repay the loan subject only to changes during the advance of funds such as litigation resulting from the failure to advance loan funds, and receipt of closing certificates.

(xii) Preliminary approving opinion, if any, and final unqualified approving opinion of recognized Bond Counsel including opinion regarding interest on bonds being exempt from Federal and any State income taxes. On approval of the Administrator, a final opinion may be qualified to the extent that litigation is pending relating to Indian claims that may affect title to land or validity of the obligation.

(3) *Interim financing from commercial sources during construction period for loans of \$50,000 or more.* In all cases where it is possible for funds to be borrowed at reasonable interest rates on an interim basis from commercial sources, such interim financing will be obtained so as to preclude the necessity for multiple advances of FmHA or its successor agency under Public Law 103-354 funds.

(4) *Permanent instruments for FmHA or its successor agency under Public Law 103-354 loans to repay interim commercial financing.* Such loans will be evidenced by one of the types of instruments in the order of preference shown in paragraph (a)(5) of this exhibit.

(5) *Multiple advances of FmHA or its successor agency under Public Law 103-354 funds using permanent instruments.* Where interim financing from commercial sources is not available, FmHA or its successor agency under Public Law 103-354 loan proceeds will be disbursed on an "as needed by borrower"

basis in amounts not to exceed the amount needed during 30-day periods. FmHA or its successor agency under Public Law 103-354 loans will be evidenced by the following types of instruments chosen in accordance with the following order of preference:

(i) *First preference—Form 1944-52.* If legally permissible, use Form FmHA or its successor agency under Public Law 103-354 1944-52, "Multiple Family Housing Promissory Note."

(ii) *Second preference—single instrument with amortized installments.* If Form FmHA or its successor agency under Public Law 103-354 1944-52 is not legally permissible, use a single instrument showing on the face the full amount of the loan and providing for amortized installments with provisions for entering the date and amount of each FmHA or its successor agency under Public Law 103-354 advance on the reverse thereof or an attachment to the instrument. Form FmHA or its successor agency under Public Law 103-354 1944-52 should be followed to the extent possible. The first amortized payment will be due one amortized payment period following the AED.

See the FMI for Form FmHA or its successor agency under Public Law 103-354 1944-52 for specific instructions.

(iii) *Third preference—single instrument with installments of principal plus interest.* If a single amortized installment instrument is not legally permissible, use a single instrument providing for specified installments of principal plus accrued interest. The principal should be in an amount best adapted to making principal retirement and interest payments which closely approximate equal installments of combined interest and principal as required by the first two preferences.

(A) The repayment terms described in paragraph (a)(5)(ii) of this exhibit "Second preference" apply.

(B) The instruments shall contain in substance the following provisions:

(1) A statement of principal maturities and due dates.

(2) Payments made on indebtedness evidenced by this instrument, regardless of when made, shall be applied first to interest due through the date of payment and next to principal except that payments made from security depleting sources shall, after payment of interest to the payment date, be applied to the principal last to become due under the instrument and shall not affect the obligation of the borrower to pay the remaining installments as scheduled.

(iv) *Fourth preference.* If instruments described under the first, second, and third preferences are not legally permissible, use serial bonds with a bond or bonds delivered in the amount of each advance. Bonds will be delivered in the order of their numbers. Such bonds will conform with the minimum requirements of paragraph (7) of this exhibit.

Rules for application of payments on serial bonds will be the same as those for principal installment single bonds as set out in the preceding paragraph (5)(iii) of this exhibit.

(6) *Multiple advances of FmHA or its successor agency under Public Law 103-354 funds using temporary debt instrument.* When none of the instruments described in paragraph (5) of this exhibit are legally permissible or practical, a bond anticipation note or similar temporary debt instrument may be used. The debt instrument will provide for multiple advance of FmHA or its successor agency under Public Law 103-354 loan funds and will be for the full amount of the FmHA or its successor agency under Public Law 103-354 loan. The instrument will be prepared by Bond Counsel and approved by the State Director and OGC. At the same time FmHA or its successor agency under Public Law 103-354 delivers the last advance, the borrower will deliver the permanent bond instrument to FmHA or its successor agency under Public Law 103-354 to replace the temporary debt instrument and the canceled temporary instrument will be delivered to the borrower. The approved debt instrument will show at least the following:

(i) The date from which each advance will bear interest.

(ii) The interest rate.

(iii) A payment schedule providing for interest on outstanding principal at least annually.

(iv) A maturity date which shall be no earlier than the anticipated issuance date of the permanent instrument(s).

(7) *Minimum bond specifications.* The provisions of paragraph (7) are of this exhibit minimum specifications only, and must be followed to the extent legally permissible.

(i) *Type and denominations.* Bond resolutions or ordinances will provide that the instrument(s) be either a bond representing the total amount of the indebtedness or Serial bonds in denominations customarily accepted in municipal financing (ordinarily in multiples of not less than \$1,000). Single bonds may provide for either repayment of principal plus interest or amortized installments; amortized installments are preferable from the standpoint of FmHA. Coupon bonds will not be used unless required by statute.

(ii) *Bond registration.* Bonds will contain provisions permitting registration as to both principal and interest. Bonds purchased by FmHA will be registered in the name of "United States of America, Farmers Home Administration, or its successor agency under Public Law 103-354" and will remain so registered at all times while the bonds are held or insured by the United States. The address of FmHA for registration purposes will be that of the FmHA or its successor agency under Public Law 103-354 Finance office.

(iii) *Size and quality.* Size of bonds and coupons should conform to standard practice.

Paper must be of sufficient quality to prevent deterioration through ordinary handling over the life of the loan.

(iv) *Date of bonds.* Bonds will be dated as of the day of delivery.

(v) *Payment date.* Insofar as loan payments are consistent with income availability, applicable State statutes, and commercial customs in the preparation of bonds or other evidence of indebtedness, they should be scheduled on a monthly basis either in the bond or other evidence of indebtedness or through the use of a supplemental agreement. Such requirements will be accomplished not later than the time of loan closing. When monthly payments are required, such payments will be scheduled beginning one full month following the date of loan closing or the end of any approved deferment period. Subsequent monthly payments will be scheduled each full month thereafter. In those cases where evidence of indebtedness calls for annual or semiannual payments, they will be scheduled beginning six or twelve full months, respectively following the date of loan closing or the end of any approved deferment period. Subsequent payments will be scheduled each sixty or twelfth full month respectively, thereafter. When the evidence of indebtedness is dated the 29th, 30th, or 31st day of a month, the payment date will be scheduled the 28th day of the month. Borrowers scheduled to make monthly payments will be given a monthly payment card jacket at the time of loan closing. These borrowers will submit payment directly to the Finance Office.

(vi) *Place of payment.* Payments on bonds purchased by FmHA or its successor agency under Public Law 103-354 should be submitted to the FmHA or its successor agency under Public Law 103-354 Finance Office by the borrower.

(vii) *Redemptions.* Bonds should contain customary redemption provisions, subject, however, to unlimited right of redemption without premium of any bonds held by FmHA or its successor agency under Public Law 103-354 except to the extent limited by the provisions under the "Third Preference" and "Fourth Preference" in paragraph (5) of this exhibit.

(viii) *Additional revenue bonds.* Parity bonds may be issued to complete the project. Otherwise, parity bonds may not be issued unless the net revenues (that is, unless otherwise defined by the State statute, gross revenues less essential operation and maintenance expense) for the fiscal year preceding the year in which such parity bonds are to be issued were 120 percent of the average annual debt service requirements on all bonds then outstanding and those to be issued; provided, that this limitation may be waived or modified by the written consent of bondholders representing 75 percent of the then outstanding principal indebtedness. Junior and

subordinate bonds may be issued without restriction.

(ix) *Scheduling of FmHA or its successor agency under Public Law 103-354 payments when joint financing is involved.* In all cases in which FmHA or its successor agency under Public Law 103-354 is participating with another lender in the joint financing of the project to supply funds required by one applicant, the FmHA or its successor agency under Public Law 103-354 payments of principal and interest should approximate amortized installments.

(x) *Precautions.* The following types of provisions in debt instruments should be avoided.

(A) Provisions for the holder to manually post each payment to the instrument.

(B) Provisions for returning the permanent or temporary debt instrument to the borrower in order that it, rather than FmHA or its successor agency under Public Law 103-354, may post the date and amount of each advance or repayment on the instrument.

(8) *Bidding by FmHA or its successor agency under Public Law 103-354.* Where a public bond sale is required by State statutes, FmHA or its successor agency under Public Law 103-354 will not normally submit a bid at the advertised sale unless State statutes require a bid to be submitted. Preferably FmHA or its successor agency under Public Law 103-354 will negotiate the purchase with the applicant subsequent to the advertised sale if no acceptable bid is received. In those cases where FmHA or its successor agency under Public Law 103-354 is required to bid, the bid will be made at the applicable FmHA or its successor agency under Public Law 103-354 interest rate.

[44 FR 59199, Oct. 15, 1979, as amended at 50 FR 8593, Mar. 4, 1985]

EXHIBIT I TO SUBPART D OF PART 1944—
GUIDE LETTER FOR USE IN INFORMING INTERIM LENDER OF FMHA OR ITS SUCCESSOR AGENCY UNDER PUBLIC LAW 103-354'S COMMITMENT

Name and Address of Private Lender _____

Dear _____:

(FOR ORGANIZATIONS)

Reference is made to a request from the (Smith Housing Assoc.) through (John Smith) its President, for interim financing from your firm to construct a rental housing facility at the interest rate and terms and conditions agreed upon as reflected in the attached letter.

(FOR INDIVIDUALS)

Reference is made to a request from (John Jones) for interim financing from your firm

to construct a rental housing facility at the interest rate and terms and conditions agreed upon as reflected in the attached letter.

This letter is to confirm certain understandings on behalf of the Farmers Home Administration (FmHA) or its successor agency under Public Law 103-354.

Final drawings, specifications, and all other contracts documents have been prepared and approved, and the applicant is prepared to commence construction. It has been determined by the applicant and the Farmers Home Administration or its successor agency under Public Law 103-354 that the conditions of loan closing can be met. Funds have been obligated for the project, as evidenced by the attached copy of Form FmHA or its successor agency under Public Law 103-354 1944-57, 'Multiple Family Housing Acknowledgement of Obligated Funds/Check Request.'

The applicant has been required by FmHA or its successor agency under Public Law 103-354 to deposit \$ _____ with your firm to be utilized prior to any interim loan funds. The applicant has proposed and FmHA or its successor agency under Public Law 103-354 has agreed that you may first advance any applicant funds on deposit, and then advance the proceeds of the interim loan in accordance with the terms and conditions stated in your attached letter, as needed to pay for construction and other authorized and legally eligible expenses incurred by the applicant. It is understood, however, that advances of both the applicant's funds and the interim loan funds will be made only upon presentation of proper statements and partial payment estimates prepared by the builder, and approved for payment by the consulting architect, the applicant, and the FmHA or its successor agency under Public Law 103-354 District Director.

We have scheduled the Farmers Home Administration or its successor agency under Public Law 103-354 loan to be closed when construction to be financed with loan funds is substantially complete in accordance with the FmHA or its successor agency under Public Law 103-354 approved contract documents, drawings and specifications (except for minor punch list items), and the applicant provides evidence indicating that there are no unpaid obligations outstanding in connection with the project. At that time, funds not exceeding the FmHA or its successor agency under Public Law 103-354 loan amount will be available to pay off the amount of loan advances your lending institution has made for authorized approved purposes, including accrued interest to the date of closing.

FmHA or its successor agency under Public Law 103-354 cannot provide you with an unconditional letter of commitment guaranteeing FmHA or its successor agency under

Public Law 103-354 loan closing. Factors such as noncompletion, default, unacceptable workmanship, and marked deviation from approved drawings and specifications could prevent the FmHA or its successor agency under Public Law 103-354 loan from being closed.

These problems can be minimized by making a thorough review of the [contract documents,]* drawings and specifications, evaluating the qualifications and past performance of the builder, and obtaining an adequate corporate surety bond guaranteeing both payment and performance.

The following are additional safeguards to help assure FmHA or its successor agency under Public Law 103-354 loan closing:

1. We invite you or your representatives to accompany FmHA or its successor agency under Public Law 103-354 personnel during construction inspections so that at least 3 or 4 joint inspections at critical points during construction (including the final inspection), can be made to help assure that construction is proceeding in accordance with the FmHA or its successor agency under Public Law 103-354 approved drawings and specifications.

2. FmHA or its successor agency under Public Law 103-354 will maintain its commitment in the amount of the obligated loan funds for a reasonable period of time after the expiration of any specified completion dates, provided work on the project is progressing satisfactorily and any identified problems have been resolved.

3. FmHA or its successor agency under Public Law 103-354 will not arbitrarily abandon your lending institution in the event of default. Should the contractor default, FmHA or its successor agency under Public Law 103-354 will attempt to provide financial assistance to the applicant in accordance with our administrative procedures and lending requirements, provided a new contractor can complete the project for a total cost within the security value of the project. If this is not possible, or should the FmHA or its successor agency under Public Law 103-354 loan applicant become unable or unwilling to continue with the project, FmHA or its successor agency under Public Law 103-354 also will attempt to provide financial assistance to any eligible applicant (subject to the availability of funds, our administrative procedures, and our lending requirements), to purchase the completed project from your lending institution.

4. FmHA or its successor agency under Public Law 103-354 is aware that circumstances, such as subsurface ground conditions and change orders necessitated by required changes in the work to be performed, may cause cost increases after FmHA or its successor agency under Public Law 103-354 loan approval and the obligation of FmHA or its successor agency under Public Law 103-354 loan funds. It is a general practice for

FmHA or its successor agency under Public Law 103-354 to make subsequent loans when necessary to help cover these eligible costs, provided additional loan funds are available, the change orders were approved by FmHA or its successor agency under Public Law 103-354, the increased costs are legitimate and are for authorized loan purposes, and the total cost of the project is within its security value.

Your assistance to the applicant is appreciated.

Sincerely,

State Director.

[44 FR 59199, Oct. 15, 1979, as amended at 50 FR 8593, Mar. 4, 1985]

EXHIBIT J TO SUBPART D OF PART 1944
[RESERVED]

EXHIBIT K TO SUBPART D OF PART 1944—
LOAN AGREEMENT

(LH INSURED LOAN TO FARM BORROWERS TO PROVIDE HOUSING FOR THE FARM BORROWER'S FARMING OPERATIONS)

A. General provisions:

1. This agreement is entered into _____ (Date).

2. This agreement is between _____ (borrower's name whether one or more), whose mailing address is _____, and the United States of America, acting through the Farmers Home Administration or its successor agency under Public Law 103-354, United States Department of Agriculture (the Government).

3. This agreement is made in return for receiving Labor Housing (LH) loan assistance from the Government totaling \$ _____ as evidenced by a Promissory Note dated _____. This assistance is made with the understanding that housing is to be provided to Domestic Farm Laborers on a rent free basis. Any rents collected without the written consent of the Government are the responsibility of the borrower and shall be refunded by the borrower to the tenants.

4. The borrower agrees to comply with Government regulations governing the LH loan program.

5. This agreement is in addition to any other agreements entered into with the Government, such as any promissory note, mortgage or deed of trust, loan approval requirements, etc.

B. Rent and Occupancy.

Occupancy of the housing will be limited to domestic farmworkers or migrant farmworkers as defined by the Government, unless the Government gives prior written approval for other occupancy, except that in no case will a member of the borrower's immediate family occupy the housing.

The borrower agrees:

1. To meet the LH loan objectives by providing decent, safe, and sanitary housing for eligible tenants;

2. To provide the housing rent free to eligible farmworker tenants;

3. To get the Government's prior approval before collecting utility charges (i.e. electricity, fuel, water, waste disposal, etc.) or requiring a refundable damage deposit or cleaning fee from tenants;

4. To get the Government's prior approval if there is a need to permit occupancy by tenants who are not working in the borrower's farming operation or not normally eligible to occupy the housing unit; and

5. To get the Government's prior approval if there is a need to charge rent to tenants or change any existing rents. To provide a management plan, which meets requirements set out in Government regulations, whenever rents are charged to tenants. The management plan will describe how the housing operation will be conducted.

C. Recordkeeping.

The borrower agrees:

1. To provide the Government financial information as required by Government regulations;

2. To provide annual verification of employment of eligible tenants as occupancy changes, not less than once per year; and

3. To keep information required by Government regulations and make the information available for Government inspection, to include tenant nonrent affidavits.

D. Compliance with Federal, State, and Local Laws and Regulations.

The borrower agrees to comply with applicable Federal, State, and local laws and regulations, including but not limited to, the following:

1. To provide equal housing opportunities to tenants;

2. To operate the housing in a safe environment;

3. To maintain comprehensive property insurance on the property taken as security;

4. To pay taxes and assessments on the property taken as security; and

5. To make the security property available for inspection by the Government.

E. Disposition of LH Security Property.

The borrower agrees:

1. Not to sell or otherwise dispose of property taken as security for the LH loan without the Government's prior written approval;

2. Not to sell or enter into any business arrangement which may potentially or actually place the housing operation under the management or control of another party without the prior approval of the Government; and

3. To prohibit any liens to be taken on the security property without the prior approval of the Government.

F. Enforcement Considerations.

RHS, RBS, RUS, FSA, USDA

Pt. 1944, Subpt. D, Exh. M

The borrower understands that any violation of the terms of this agreement may enable the Government to declare the note immediately due and payable and may adversely affect the borrower's ability to obtain other Government loans or grants.

G. General Provisions.

This agreement may be cited in the security instrument and other Instruments or agreements as the "Loan Agreement of _____ 19__," (date of this instrument)

H. Signature(s).

Signature of Borrower

Witness

Signature of Borrower

Witness

[57 FR 59905, Dec. 17, 1992]

EXHIBIT K-1 TO SUBPART D OF PART 1944

Date _____

SUBJECT: Verification of Domestic Farm Labor and Occupancy in Rent Free Housing (borrower's name or the farm's business name)

On _____, I/We became the occupant(s) of the rent free dwelling owned by the above named borrower. The dwelling is provided as a condition of my farm labor employment.

If the rent free status changes, I/we will notify the Farmers Home Administration or its successor agency under Public Law 103-354 at:

_____ Office
_____ Phone number

_____, occupant

Distribution:

Original to occupant.

1 copy for borrower's records to be kept available for inspection upon request by Farmers Home Administration or its successor agency under Public Law 103-354 for all current tenants.

[57 FR 59905, Dec. 17, 1992]

**EXHIBIT L TO SUBPART D OF PART 1944
[RESERVED]**

EXHIBIT M TO SUBPART D OF PART 1944

**MARKET RENT DETERMINATION FOR LABOR
HOUSING PROJECTS**

I. Objective. The objective of this exhibit is to provide guidance for a market rent determination for Labor Housing (LH) when the farmworker is not required to live on the farm (§1944.176(d)(5) of this subpart) or when it is necessary to determine a rent for farmer owned housing.

II. Purpose. When an eligible farmworker becomes ineligible because of above-moderate-income and has been granted permission to continue residing in the unit in accordance with paragraph VI B 5 or 6 of exhibit B of subpart C of part 1930 of this chapter, then an appropriate rent must be formulated that must not exceed the market rent for the local area as determined in accordance with the provisions set out in this exhibit.

III. Determination. Whenever a market rent determination is required for one or more LH resident(s), the market rent will be computed by using the most recently approved Form FmHA or its successor agency under Public Law 103-354 1930-7, "Statement of Budget and Cash Flow," and substituting a new debt service computation based on the project's development cost. The amortization factor for the Farm Labor Housing-State Director Exception interest rate as published in FmHA Instruction 440.1 (available in any FmHA or its successor agency under Public Law 103-354 office) will be used with a 33 year term. The rate used for amortization for debt service in the market rent budget should be rounded down to the nearest eighth of a percent. For example, 9.95 percent would be rounded to 9.875. The market rent is computed on a basis of the project's initial development cost and subsequent loans and grants. In contrast, the "basic" rent debt service is computed 1 percent loans offset by the construction grants.

The market rent determination, one set, will remain in place for the project; therefore, the determination must be recorded in a narrative statement which must be filed with the Promissory Note.

IV. Limitations. If the market rent determined in the proceeding paragraph is found to exceed the conventional market rents in the area (within an approximate 48 kilometer or (30 mile) radius or the effective market area or other appropriate geographical or local boundary) by more than \$20, then the LH market rent will be limited to the prevailing market rent. Prevailing market rents may be determined from such sources as recent Rural Rental Housing Market studies or recent area classified advertisements (within the last two months), documented, and adjusted for comparability. Documentation should be similar to the information found in exhibit A-4 of this subpart, with the advertisements attached. The adjustment for comparability should consider unit size, bedroom mix, age, and amenities. This rental determination is not intended to survey housing used exclusively for farm labor rental housing, but to determine a fair conventional market rent for an above-moderate-income farmworker and family.

[57 FR 59906, Dec. 17, 1992]